

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.7407 OF 2013

Nimba s/o Trimbak Sonawane and others .. Petitioners

Versus

Sou. Anjanabai Kautik Wagh .. Respondent

**Mr. Lokesh D. Zade & Mr. Vishal A. Bagadia, Advocate for the
Petitioners.**

Mr. Anilkumar Patil, Advocate for Respondent.

CORAM : R.M. SAVANT, J.

DATE : 08th JANUARY, 2015

PC.

1. The writ jurisdiction of this Court is invoked against the order dated 03.07.2013 passed by the learned Civil Judge, Junior Division, Satana, District- Nashik by which order the application Exh.209 for amendment of the plaint came to be allowed and the Respondent No.1/original Plaintiff was allowed to amend plaint in terms of the amendment sought vide Exh.209. The Trial Court has allowed the said application on the ground that though the relief of partition which is sought by the present amendment was deleted by an earlier amendment sought by the Plaintiffs allowing the present amendment sought vide Exh.209 would not prejudice the Defendants as the said amendment is necessary and would result in

the complete adjudication of the lis between the parties.

2. The learned counsel for the Petitioners sought to make submissions as regards the merits of the case of the Plaintiff in the amendment which is sought to be incorporated vide application Exh.209. It is trite that the merits of the case which is sought to be incorporated by way of amendment need not be gone into at the stage of consideration of an application for amendment. It would be therefore open for the Petitioners herein to take such defences as available to them in law as against the relief sought vide the said amendment application Exh.209 by filing an additional written statement if so advised. Having regard to the reasons mentioned in the impugned order and also having regard to the well settled principles applicable to under Order 6 Rule 17 of the CPC, no case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed. The learned counsel for the parties point out that the suit is of the year 2004. Having regard to the said fact, the hearing of the suit is expedited and the Trial Court may endeavour to dispose of the said suit latest by 31st January, 2016.

[R.M. SAVANT, J]