

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

WRIT PETITION NO.9905 OF 2015

Suryakant Kisan Wayakule and ors. : Petitioners.

Versus

Mrs. Dipali @ Mahananda Dilip Walupante : Respondent.

Mr. Surel S Shah for the Petitioners.

CORAM : R. M. SAVANT, J.

DATE : 15th October 2015

P.C.

1 The order dated 16/06/2015 passed by the learned 2nd Joint Civil Judge, Junior Division, Barshi allowing the Application (Exhibit 28) for amendment of the plaint is taken exception to by way of the above Petition. The amendment sought is in respect of the construction allegedly put up during the pendency of the suit in question.

2 The said amendment application was opposed to by the Defendants. It is the case of the Defendants that the documents relating to the said construction were produced before the Trial Court on 07/02/2011 and therefore the amendment sought vide the instant application dated 12/12/2014 was barred by limitation.

3 The Trial Court has allowed the said amendment application on the ground that the part of the construction was carried out during the

pendency of the suit in question and that the amendment is necessary for a complete and effectual adjudication of the suit in question and also to avoid multiplicity of proceedings.

4 In my view, though no case for interference with the impugned order dated 16/06/2015 is made out, it would be just and proper to keep the issue of limitation open in so far as the case sought to be incorporated by the amendment application is concerned. Hence by keeping the said issue open for being raised before the Trial Court, the above Writ Petition is disposed of.

[R.M.SAVANT, J]