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

WRIT PETITION NO. 10627 OF 2014

Mr. Babu Rama Dhokare.

... Petitioner.

V/s.

Shankar Dadu Harer

Since deceased through his legal Heirs & Ors. ... Respondents.

Mr. Prashant Bhavake for the Petitioner.

None for the Respondents.

CORAM : N.M. Jamdar, J.

22 August, 2016.

Oral Order :-

The Petitioner challenges the order dated 17 June 2014 passed by the Civil Judge, Junior Division, Ajara below Exhibit 103 in Regular Civil Suit No. 34 of 2006 allowing the application for amendment of the plaint filed by the Respondent – Plaintiff.

2. A Suit is filed by the Respondent – Plaintiff for recovery of the suit property from the Petitioner. In this Suit this is a second amendment which has been moved by the Respondent – Plaintiff.

According to the learned Counsel for the Petitioner, the amendment ought not to have been allowed as it completely challenges the nature of the Suit. At the time of application, the Suit is at pre-trial stage. Issues are not yet framed. It is settled law that at this stage the Court generally grants amendment to the pleadings, however, with certain exceptions.

3. In the present case the amendment is moved by the Respondent – Plaintiff in respect of the description of the suit property pursuant to the report of the Commissioner. The main cause of action of recovery of possession of the suit. Since such amendment is moved at pre-trial stage, the discretion used by the learned Civil Judge needs to be interfered under power of superintendence of this Court. The Petitioner will get ample opportunities to contest the amended portion of the plaint by filing an additional written statement. The Petitioner is permitted to file additional written statement in that regard.

4. In view of this position, no interference is called for. The Writ Petition is accordingly rejected.

(N.M. Jamdar, J.)