

Sequeira

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

WRIT PETITION NO. 11120 OF 2015

Liladhar Prahlad Patil.

... Petitioner

Vs

Balu Ganpat Desai & ors.

... Respondents.

Mr.P.P.Kulkarni, for the Petitioner.

None for Respondents.

***CORAM : N.M.Jamdar, J.
Friday, 16 September 2016.***

P.C.:

Heard learned counsel for the Petitioner. The Petitioner challenges the order dated 6 August 2015 passed by the learned City Civil Court Judge, Mumbai allowing the Chamber summons filed by the Respondents-Plaintiffs.

2. By the Chamber summons which is allowed the Respondents sought to delete name of Plaintiff No.3 from the cause title of the plaint and to add a paragraph to state that the original Plaintiff Hanumant Mahadev Desai, has executed a Will in favour of Plaintiff Nos.1 and 2 and the word 'plaintiff no.3' be substituted by 'deceased original plaintiff no.3'.

3. Heard learned counsel for the Petitioner. The Plaintiffs have sought an amendment of deletion of Plaintiff No.3 from the cause

title of the plaint. Whatever the consequence of this amendment and the deletion of Plaintiff No.3, the learned Judge has kept open to be considered at the time of trial. As regards the paragraph (b) in the Schedule which is allowed to be incorporated, the Petitioner can always file an additional written statement and contest the same on merits. The learned Judge by the impugned order has not foreclosed the contentions of the Petitioner on merits as far as the amended portion is concerned. In view of this position since only the amendment is allowed and no decision of merits is taken by the learned City Civil Court Judge, no prejudice is caused to the Petitioner to warrant interference in the impugned orders. Writ Petition is accordingly disposed of.

(N.M.Jamdar, J.)