

(1)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.8947 OF 2016

Shri. Chandrakant Gajendra Chaudhari
Since deceased hence through legal
representative

1. Smt. Sushma Chandrakant Chaudhari,
Age: 40 years, Occ: Household,
2. Shri. Rohit Chandrakant Chaudhari,
Age: 14 years, Occ: Education,
3. Namrata Chandrakant Chaudhari,
Age: 16 years, Occ: Education,

Nos. 2 and 3 since minor hence
under Guardianship of their mother
petitioner No.1 :

Smt. Sushma Chandrakant Chaudhari,
Age: 40 years, Occ: Household,
All residents of 28/A, Jai
Mahavir Society, Near Arihant
Mangal Karyalaya, Dhule,
Taluka and District Dhule.

..PETITIONERS

VERSUS

1. Shri. Prakash Bhila Patil,
Age: 23 years, Occ: Agri.,
2. Shri. Amol Bhila Patil,
Age: 21 years, Occ: Agri.,
3. Smt. Sunanda Bhila Patil,
Age: 42 years, Occ: Agri.,

R/o. At Mhasave, Tq. Parola,
District Jalgaon.

4. Kavita Bhila Patil

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@ Kavita Deepak Patil,
Age: 26 years, Occ: Household,
R/o. At Janve, Tq. Amalner,
District Jalgaon.

5. Sheetal Bhila Patil,
@ Sheetal Jeeval Patil,
Age: 25 years, Occ: Household,
R/o. At Karchi Kanje,
Taluka Erandol, Dist. Jalgaon.

6. Shri. Bharat Mahadu Patil,
Age: 47 years, Occ: Agri.,

7. Bhikubai Subhash Patil,
Age: 55 years, Occ: Agri.,

Both R/o. At Mhasave, Tq. Parola,
District Jalgaon.

8. Sakubai Bhagwan Patil,
Age: 53 years, Occ: Agri.,
R/o. At Nandre, Tq. Pachora,
District Jalgaon.

9. Shri. Dattatraya Dnyaneshwar
Kulkarni, Age: 69 years,
Occ: Retired,

10. Shri Deelip Dnyaneshwar Kulkarni,
Age: 66 years, Occ: Retired,

11. Bebi Dnyaneshwar Kulkarni,
@ Sudha Mohan Fadnis,
Age: Major, Occ: Not known.

All R/o. 101, C Edan Garden
768/6, PYC Gymkhana, Pune.

..RESPONDENTS

Mr M.S. Kulkarni, Advocate for petitioners;
Mr P.B. Patil, Advocate for respondent Nos.1 to 8;
Mr K.C. Sant, Advocate for respondent Nos.9 to 11

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CORAM : NITIN W. SAMBRE, J.**DATE : 6th SEPTEMBER, 2017****ORAL ORDER :**

In a suit for specific performance, an application below Exhibit-93 came to be moved by the petitioner-plaintiff for amendment of the plaint praying therein addition of 'Acquiring Body' as party-defendant and also amendment to the prayer seeking release of compensation in her favour. Application (Exhibit-93) for such amendment came to be rejected by the impugned order dated 26th April, 2016 by citing two reasons; (a) Prayer in suit, in alternative to grant specific performance is also for return of the earnest money and (b) the amendment in given eventuality was not warranted.

2. Mr. Kulkarni, learned Counsel for the plaintiff though would strenuously urge that the amendment was necessary so as to avoid multiplicity of the proceedings, particularly on the issue of apportionment of compensation, however, in my

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opinion, the said contentions are required to be rejected for the reasons as are recorded by learned trial Court. The fact remains that the plaintiff - petitioner has come out with a plea in a suit for specific performance and in alternate for return of earnest amount also.

3. Apart from above, it is informed at bar that the amount of compensation is already released as is pointed out by learned Counsel for respondent Nos. 9 to 11.

4. In view thereof, no interference is warranted. The petition fails and stands rejected.

(**NITIN W. SAMBRE, J.**)

Tupe