

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10786 OF 2016

JIJABAI GOKUL MULE AND OTHERS
VERSUS
RAJARAM MAHADU MULE AND OTHERS

Advocate for Petitioner : Shri Girish Nagori.
Advocate for Respondent No. 1 : Shri M.M. Bhokarikar.

CORAM : RAVINDRA V. GHUGE, J.
Dated : 05th July, 2017

PER COURT :

1. Having considered the submissions and having gone through the petition, I find that this petition is not required to be entertained. The pleadings of the plaintiffs as well as the defendants in R.C.S. No. 34/2014. are complete. At the time of recording the examination-in-chief of the plaintiffs, the plaintiffs added a new pleading through the affidavit in lieu of examination-in-chief. The pleading in the plaint is that, the defendant sold the ancestral property and out of the sale proceeds, he had purchased a new suit property. In the examination-in-chief of the plaintiffs, they have tried to improvise the case by stating that the defendants had sold the

land, that stood in the name of the mother-in-law. The block number of the said land is also mentioned in the examination-in-chief, which was tendered on 05/02/2016.

2. The defendant, therefore, sought to amend his written statement by tendering an application exhibit 43, dated 16/03/2016. The reason cited for amending the written statement was that as plaintiffs were trying to introduce a new issue, the defendant desires to counter the issue by amending the written statement to explain the said aspect. Exhibit 43 was, therefore, allowed by the Trial Court, considering the law laid down in the matters of (1) Ajendraprasadji N. Pande and another Versus Swami Keshavprakeshasji. N. and another [AIR 2007 S.C. 806]. (2) Murli Kurup Versus City Estate Developers Limited [2014 (9) LJ SOFT 25]. (3) Radhika Versus Bajrangi [AIR 1996 S.C. 2358].

3. It is settled law that an amendment to a written statement is to be considered more liberally, than an amendment to a

plaint. So also, the Hon'ble Apex Court has held in Syed Yakooob Versus K.S. Radhakrishnan and others [AIR 1964 SC 447] and Surya Dev Rai Versus Ram Chander Rai [(2003) 6 SCC 682], that if the impugned order does not cause gross injustice to any party, no interference is called for only because a second view is possible.

4. Considering the above, I find that this petition is devoid of merits and is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)