

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

WRIT PETITION NO. 56 OF 2016

Ashok Ratan Gaikwad and others .. Petitioners

Versus

Laxmibai Prayagbai Shankarrao
Pradhan and others .. Respondents

Shri Parag V. Barde, Advocate for Petitioners.

Shri S. R. Deshpande, Advocate for the Respondent No. 1.

CORAM : S. V. GANGAPURWALA , J.

DATE : 21ST APRIL, 2017.

PER COURT :

. The application filed by the plaintiff for amendment in
plaint is allowed. Aggrieved thereby the defendants have filed
present writ petition.

2. Mr. Barde, the learned counsel for petitioners submits that,
suit is filed for partition and separate possession in the year
2012. After lapse of three years the plaintiff filed an application
seeking addition of some of the properties and also parties.
Because of the addition of the properties, the jurisdiction of the
Trial Court would be lost, as such the amendment cannot be
allowed. According to the learned counsel even the issue in
respect of limitation is not considered. One of the party sought to

be added is not in existence. All these aspects are not considered by the Court.

3. In a suit for partition and separate possession, the plaintiff has to include all the properties and add all the parties. The plaintiff by way of an amendment has added properties and the parties. The defendants/petitioners have nowhere stated as to how the pecuniary jurisdiction of the Court would be lost. The valuation has not been given by the defendants of the properties sought to be added to hold that by way of addition of the properties the suit would go beyond the pecuniary jurisdiction of the Court.

4. The defendants will have every right to raise the defences with regard to addition of the parties and the properties. The right to file amended/additional written statement would always be there with the defendant so as to to raise all the grounds of defences.

5. As the suit is for partition and separate possession and it is necessary to include all the properties and all the parties order passed allowing amendment needs no interference. The writ petition accordingly is disposed of. No costs.

[S. V. GANGAPURWALA, J.]