

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

WRIT PETITION NO. 847 OF 2015

Tulshiram Shankar Doiphode
and another .. Petitioners

Versus

Goraknath Asraji Shinde
Died through L.Rs. Aashabai and others .. Respondents

Shri V. B. Garud, Advocate for Petitioners.
Shri K. D. Mundhe, A.G.P. for Respondents/State.
Shri Ajit B. Kale Advocate for the Respondent Nos. 1A to 3.

**CORAM : S. V. GANGAPURWALA, J.
DATE : 13TH DECEMBER, 2017.**

FINAL ORDER :

. Mr. Garud, the learned counsel for petitioners submits that, initially petitioners had led their evidence. Thereafter, Court Commissioner was appointed. The land was measured in April 2011. The report was submitted by the Court Commissioner in June 2011. Thereafter, again plaintiffs led their evidence and when defendants had commenced their evidence, thereafter application is filed for amendment seeking possession. According to the learned advocate, it is after three years of receipt of Commissioner's report, the amendment application is filed. The same is not permissible.

2. The learned counsel for the respondents supports the order.
3. There appears to be delay in filing application for amendment after receipt of the Commissioner's report. However, the suit property is the same. The suit is being converted in to suit for possession.
4. The Trial Court has exercised his discretion. The same also would avoid multifarious litigation.
5. Considering the discretion having been exercised by the Trial Court, I am not inclined to exercise writ jurisdiction under Article 227 of the Constitution of India. The writ petition as such is disposed of. No costs.

[S. V. GANGAPURWALA, J.]