

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 995 OF 2017

RUKMINIBAI KRISHNARAO RANE
SARDESSAI AND 39 ORS.,

... Petitioners

Versus

GAUTAM RAMANBAI PATEL AND ANR.,

... Respondents

Mr. Sardessai Balkrishna Prakash, Advocate for the Petitioners.

Coram:- C. V. BHADANG, J.

Date:- 13th November 2017

P.C.:

Heard Shri Balkrishna, the learned counsel for the petitioners for some time.

2. The petitioners are aggrieved by the order dated 25/1/2017 by which the learned trial court has allowed the amendment in the plaint. The draft amendment proposed in para 18 of the application for amendment shows that there are various amendments sought including introduction of a prayer clause (bb). The learned counsel does not dispute that the proposed amendment other than the prayer clause (bb) are in the nature of

typographical errors. The petitioner is mainly aggrieved by the introduction of the prayer clause (bb) which is an alternate prayer introduced in the suit to claim that the specific performance be granted by execution of a sale deed in the name of the plaintiff no.1 and defendant no.40. It is contended that the agreement shows that the ultimate transfer shall be effected in the name of the company which is plaintiff no.2. It is contended that such a prayer is not competent in view of the clause 20 of the agreement.

3. I have considered the circumstances and the submissions made. Indisputably the amendment sought is at pre- trial stage. The petitioners are only aggrieved by the introduction of the prayer clause (bb) which is an alternate prayer. Thus this is not a case where the respondents/plaintiffs have abandoned the main prayer in the suit. Needless to mention that the petitioners shall be entitled to carry out consequential amendment if any to the written statement. The learned counsel also does not dispute that the prayer clause (b) as it stands in the original plaint is on similar lines and is identical to prayer clause (bb), except the plaintiff no.2 has been replaced by plaintiff no.1 and defendant no.40. The trial court shall frame appropriate issue which shall be gone into at the trial. This is not a stage where merits of the amendment can be gone into. In such circumstances I do not find

that a case for interference is made out. The writ petition is accordingly dismissed.

C. V. BHADANG, J.

ap/-