

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELATE JURISDICTION**

WRIT PETITION NO. 11947 OF 2012

Deepak Ramesh Salunkhe & Anr. .. Petitioners

v/s.

Smt. Malan Jagannath Chavan & Ors. .. Respondents

Mr. S.M. Railkar for the petitioner
Ms. Deepti Wadkar for respondent no.1

CORAM : M.S. SANKLECHA, J.

DATED : 14th AUGUST, 2017

P.C.

1. Ms. Wadkar, learned Counsel appearing for respondent no.1, on instructions, states that she has also been instructed to appear for respondent nos. 2 to 6 and undertakes to file *Vakalatnama*, within a period of one week from today.

2. At the request of the parties, the petition is taken up for final disposal at this stage.

3. By a separate order, I have today allowed Civil Application No.1690 of 2015 which set aside / recalled the order dated 20th

December, 2013 passed by the Registrar (Judicial) dismissing the petition against the respondent nos. 2 to 6.

4. This petition challenges the order dated 3rd September, 2012 passed by the 2nd Joint Civil Judge, Junior Division, Chiplun, Dist. Ratnagiri. By the impugned order, the petitioner's application to amend his plaint was rejected. Admittedly, the amendment was sought before the trial has commenced, although the issues had been framed. Further, the proposed amendment was rejected on the ground that the same was not necessary in the context of the issues framed. The amendment sought was to bring on record a Will dated 7th March, 2009, which came to the knowledge of the plaintiff, after the filing of the suit.

5. In the above view, so as to avoid multiplicity of the proceedings and bring an end to the dispute between the parties at the earliest, the impugned order is set aside and the proposed amendment is allowed. However, it is made clear that the merits of the amendment is a issue which is left open for consideration at the hearing of the suit.

6. In view of the above, the Petition is allowed.
7. The parties seek direction to early disposal of the suit. IT is clarified that if the parties make an application to the trial Court for early disposal of the suit, such an application would be considered sympathetically by the trial Court.
8. The parties to act on an authenticated copy of this order.

(M.S. SANKLECHA, J.)