

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

WRIT PETITION NO. 9121 OF 2013

INDRABAI SATTAJI PADOLE
VERSUS
RAMRAO MADHAVRAO BARVE

...
Advocate for Petitioner : Mr. J V Patil h/f Katneshwarkar
P.R

Advocate for Respondents : Mr Salgare Sachin J.

...
CORAM : V.K. JADHAV, J.
Dated: February 06, 2018

...
PER COURT :-

1. I find no substance in this writ petition.
2. Petitioner/original defendant has challenged the order passed by the Jt. Civil Judge Jr. Division, Basmathnagar, below exh.21 in R.C.S. No.100/2010. Petitioner/defendant has filed an application exh.21 seeking amendment in the written statement. Petitioner by way of proposed amendment sought deletion of original paragraph no.13 of the written statement. Respondent/plaintiff has strongly resisted the application by filing say at exh.23. The learned Judge of the Trial Court by order dated 14.8.2012 rejected the

said application. Hence, this writ petition.

3. The learned counsel for the petitioner/original defendant submits that, after death of husband, the petitioner/defendant become the owner in possession of the suit land and petitioner wants to delete original paragraph no.13 wherein it has been contended that the suit land was given to the plaintiff by the deceased husband of petitioner on batai basis, however, the plaintiff has instituted the suit for specific performance of contract on the basis of forged and fabricated document. Learned counsel submits that, proposed amendment would not cause any prejudice to the respondent/plaintiff.

4. Learned counsel for respondent/plaintiff submits that, plaintiff has instituted the suit for specific performance of contract with the specific averments that, possession of the suit property is with him. Petitioner/defendant has also admitted the possession of the respondent/plaintiff over the suit land. However,

by proposed amendment now withdrawing the material admission. Learned counsel submits that, the trial court has also recorded the evidence after rejection of this application and this writ petition has thus become infructuous.

5. On careful perusal of the contents of the application exh.21 and the impugned order passed by the Court below, I find no fault in the order. Petitioner/defendant by way of proposed amendment withdrawing material admissions already given in the written statement by way of original paragraph no.13. It was never the case of the petitioner/defendant that after death of husband she became owner in possession of the suit land. Writ Petition is devoid of any merits. Writ petition is hereby dismissed. No costs.

(V.K. JADHAV, J.)

...