

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

WRIT PETITION NO.3313 OF 2017

Anandrao Balu Jadhav & Ors. .. Petitioners
Vs.
Shivaji Baban Jadhav & Ors. .. Respondents

Mr.Prabhanjan Gujar for the petitioners.
Mr.Ravi P. Kadam for the respondent nos.1 to 5.

***CORAM : R.D. DHANUKA, J.
DATE : 23rd October 2018***

P.C.:

. By this petition filed under Article 227 of the Constitution of India, the petitioners (original plaintiffs) have impugned the order dated 5th January 2017 passed by the learned trial Judge refusing to allow the amendment to the suit on the ground that the arguments are already concluded.

2. It is not in dispute that the suit is for partition of the property. By amendment application, the plaintiffs had proposed to bring two more properties on record. Learned counsel for the petitioners made a statement before this Court on 22nd February 2017 that his clients were not seeking partition of these properties and in the event of Court allowing the application for amendment, his clients did not want to lead evidence in that regard. This Court recorded the said statement.

3. In my view, in view of the statement made by the learned counsel for the petitioners and more particularly recorded in paragraph 4

of the said order dated 22nd February 2017, no prejudice would be caused to the respondents (original defendants).

4. The impugned order dated 5th January 2017 passed below Exhibit-78 by the learned trial Judge is accordingly quashed and set aside. Application (exhibit-78) is allowed on the condition that the petitioners would not seek partition of these newly added properties and would not lead evidence in respect of these properties.

5. Writ petition is accordingly disposed of. No order as to costs. Amendment to be carry out within two weeks from today. Hearing of the suit is expedited.

R.D. DHANUKA, J.