

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 11314 OF 2017

Janardhan Maruti Badekar & Ors. ... Petitioners
Vs.
Sou. Kantabai Sakharam Patsute (Decd.)
through his LRs and Ors. ... Respondents

Mr. S. S. Kanetkar, Advocate for the petitioners.
Mr. Nikhil Wadikar i/b. Mr. Nandu V. Pawar, Advocate for respondent
nos. 1A to 1C and 1E.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **29th June, 2018.**

P.C.:

This Petition is directed against the order dated 12th June, 2017 passed by the learned Joint Civil Judge Junior Division, Satara below Application Exhibit 111 thereby rejecting the Application for amendment of the written statement filed by the petitioner/defendant No. 3. The suit is filed for partition and declaration. The evidence of the plaintiffs and defendants is over. It is informed by the learned counsel that the matter is fixed for final hearing.

2. Heard the submissions. Perused the written statement so also the evidence and cross-examination of the defendants. The petitioners/defendants have sought two amendments:

(a) First amendment is that they want to bring the genealogy

on record, as according to them, the daughters born to Maruti and Laxmibai were not shown by the respondents/plaintiffs in paragraph 3 of the plaint. They have filed this genealogy and accordingly written statement can be amended.

A suggestion is given to the party that a fresh genealogy which is presented here, if admitted by the respondents/plaintiffs, can be taken on record and exhibited at the trial Court.

(b) Second amendment is that the petitioners/defendants wants to insert a sentence at the end of paragraph 10 about the mortgage-cum-release deed executed by the father of the plaintiffs

This amendment cannot be granted because the petitioner/defendants have tendered oral evidence on this issue. So, it is open to the parties to argue on it, as the said document is exhibited at Exhibit 96.

3. The amendment of genealogy is to be carried out by mentioning the names of the three sisters in the written statement. The petitioners/defendants can step in the box, give evidence and the plaintiffs are allowed to cross-examine them on that point. The

amendment is to be carried out to that effect in the written statement within two weeks with costs of Rs.5,000/- to be paid to the respondents/plaintiffs.

4. Writ Petition is disposed of.

(MRIDULA BHATKAR, J.)