

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

WRIT PETITION NO. 8161 OF 2009

Anjirabai Bhaskar Zagade
since deceased through her legal heirs
and legal representatives
Sou. Shalan Vijay Jadhav & Ors.

...Petitioners

Versus

Shri Damodar Krishna Kadam & Ors.

...Respondents

.....

Mr.S.T.Bhosale I/b. Mr. Dilip Bodake for the Petitioners.
Mr.Pritesh Bohade for Respondent Nos. 23 to 25B and 27 to 36.

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**CORAM: MRS.MRIDULA BHATKAR, J.
DATED: JUNE 05, 2018**

P.C. :

1. Rule. Rule made returnable forthwith. By consent of the parties, the Petition is heard finally and disposed of at the stage of admission, as this Petition is pending for admission since 2009.

2. In this Writ Petition, the order dated 18th July, 2009 below Exhibit 194 in Special Civil Suit No. 105 of 2004 passed by the learned III Jt. Civil Judge, Senior Division, Satara rejecting the application for amendment of the plaint is challenged.

3. The learned Counsel for the petitioners has submitted that the petitioners, who are the original plaintiffs, have filed an application for amendment of the plaint because the witness from the Office of the Tehsildar, Satara had produced the record of the suit property under Watan Abolition Act, 1958. Pursuant to that evidence, the amendment as prayed in para 6A of the plaint is necessary. He has further submitted that the proposed amendment will not change the nature of the suit. The trial Court ought to have considered this aspect and the order passed by the learned Judge of the trial Court is illegal and is to be set aside.

4. The learned Counsel for the respondents has supported the order passed by the learned Judge of the trial Court. He has submitted that the contents in the proposed amendment are already mentioned in paragraph nos. 3 and 4 of the plaint. He agreed that in some places of paragraph no.3, the survey number of the suit property is mentioned as "Survey No. 115/7" instead of "Survey No. 115A/7".

5. Heard submissions. Perused the impugned order and also perused paragraph nos. 3 and 4 of the plaint and para 6A i.e., the proposed amendment. The submissions of the learned Counsel for the respondents are correct. The finding given by the learned Judge of the trial Court that the amendment is a repetition of the pleadings in paragraph nos. 3 and 4 is correct. The view taken by the trial Court cannot be faulted with. Hence, Writ Petition is dismissed.

6. Wherever, the survey number of the suit property is mentioned as "Survey No. 115/7", it is to be read as "Survey No. 115A/7". The trial Court to expedite the matter, hear and conclude it till 31st October, 2018.

(MRIDULA BHATKAR, J.)