

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

WRIT PETITION NO. 12342 OF 2019

**NANDU HIRAMAN LASINKAR AND OTHERS
VERSUS
BHAGYARATHABAI SUBHASH DHARKAR**

...
Advocate for the Petitioners : Shri P. P. Uttarwar

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 09th OCTOBER, 2019.

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PER COURT :

1. The petitioners are the original defendants in Regular Civil Suit No. 40/2018 and are aggrieved by the order passed by the Trial Court dated 22/07/2019, by which, application Exhibit 20 filed by the plaintiff seeking amendment to the plaint, has been allowed.

2. The learned Advocate for the petitioners has strenuously criticized the impugned order. He draws my attention to the grounds formulated in the memo of the petition and contends that the impugned order is perverse and erroneous. Though a family tree is set out on page 3 of the plaint, parties are now being sought to be added and the entire nature of the cause of

action would be changed.

3. In the light of the strenuous submissions of the learned Advocate for the petitioners, I have gone through the petition paper book with his assistance.

4. I find from Exhibit 20 that there were certain typographical mistakes in the plaint like Umabai was typed as Omabai. Defendant No. 4 who is mentioned as Gangabai should actually be mentioned as Kisnabai, who was the first wife of Hiranman Shankar. Gangabai was the second wife of Hiranman Shankar. Similarly, Hiranman Shankar had two sons from Kisnabai, besides the plaintiff Bhagyarathabai. The second son, who will be the brother of the plaintiff, namely Prakash, was inadvertently left out of the family tree. Based on the same, calculations of the shares would also change and hence the request for amendment. Prakash as well as Madhav have passed away.

5. Considering the above, I find that the impugned order granting the amendment cannot be said to cause grave

injustice to the petitioners. They are at liberty to enter their additional written statement to oppose the amended portion keeping in view that these petitioners comprise of the branch from Gangabai, who is the second wife of Hirman Shankar.

6. In view of the above, this petition is disposed off.

(RAVINDRA V. GHUGE, J.)

shp/-