

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

WRIT PETITION NO.13793 OF 2019

VILASBEE GULAM SAYYED AND ANOTHER
VERSUS
MANJURBEE AKHBAR PATEL AND OTHERS

...

Advocate for the Petitioners : Shri More Abhijit S.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 18th November, 2019

Per Court:

1 The petitioners/ original plaintiffs in RCS No.247/2014 are aggrieved by the order dated 26.06.2019 by which, the application exhibit 72 seeking amendment in the plaint, has been rejected by the Trial Court.

2 The learned advocate for the petitioners has strenuously criticized the impugned order and has canvassed the six grounds formulated in the memo of the petition. He draws my attention to the pleadings in the plaint and the application exhibit 72 and submits that merely because the trial has commenced, the request for amendment could not have been rejected.

3 I find from the record that defendant nos.1 to 4 had preferred their written statement (exhibit 21) on 27.11.2014. In the said written statement, it was specifically mentioned that Hafijabee had executed the

sale deed in favour of Akbar Shaikh bearing No.292/1975 on 15.04.1975. It is quite obvious that the plaintiffs got the knowledge of the said sale deed dated 15.04.1975 at least on 27.11.2014, assuming that they were unaware of the said sale deed for 40 years. Even from the date of knowledge, the plaintiffs should have moved the amendment application for seeking declaration that the sale deed is illegal and null and void, within three years considering the law of limitation.

4 The Honourable Supreme Court has laid down, in the matter of **Revajeetu Builders and Developers vs. Narayanaswamy & Sons and Others, (2009) 10 SCC 84**, that an amendment should not be permitted if it is sought for introducing a time barred cause of action for which a separate suit would not be maintainable, being barred by limitation.

5 Considering the above, I do not find that the impugned order could be termed as being perverse or erroneous. This Writ Petition, being devoid of merit is, therefore, dismissed.