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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3452 OF 2019**

Maruti Kaka Jagdale, deceased
through legal heirs

1A. Vasant Maruti Jagdale & ors. ..Petitioners

vs.

Yashoda Arjunrao Sawant & ors. ..Respondents

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Shri Nikhil Wadikar i/b. Shri Nandu V. Pawar for petitioners.
Shri D.D.Rananaware for respondent No.1.

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CORAM : M.S.KARNIK, J.

DATE : 26th AUGUST, 2019

P.C. :

Heard learned counsel for the petitioners.

2. The petitioners by filing this Petition under Article 227 of the Constitution of India challenges an order passed by the trial Court allowing the application for amendment to the Plaint. The petitioner is the original defendant No.1. Defendant No.1 is the step brother of the plaintiff. The plaintiff has filed the suit for declaration that she is the owner of the suit properties by virtue of a registered sale deed dated 19/12/1987. The plaintiff had therefore prayed for injunction restraining the

defendants from interfering with her peaceful possession of the suit properties.

3. The defendants filed the written statement.

4. The plaintiff filed an application below Exhibit 70 seeking amendment. The plaintiff prayed for bringing on record some facts relating to the additional suit properties, genealogy, will deed, partition, etc. The plaintiff has also sought an amendment in the prayer clause. The trial Court allowed the application.

5. Learned counsel for the petitioners would contend that by allowing the amendment which is comprehensive in nature, the nature of the suit is completely changed. It is his submission that initially the suit is filed for injunction. However, by filing application for amendment, the plaintiff wants to change the nature of the suit into one for partition and mense profits. Learned counsel would submit that considering the comprehensive amendment filed, the trial Court should have

rejected the application as it causes serious prejudice to the petitioners.

6. I have gone through the order passed by the trial Court. The issues are yet to be framed. The trial Court has taken into consideration that though the nature of the suit will be changed, to avoid multiplicity of proceedings in future the amendment needs to be allowed.

7. In my opinion, as the issues are yet to be framed no prejudice will be caused to the petitioners if the amendment as allowed by the trial Court stands. The petitioners are always at liberty to file written statement to the said amendment also raising the contention of limitation, if so advised. The trial Court imposed cost of Rs.500/- while allowing the amendment. I see no reason to interfere with the order passed by the trial Court. The Petition is dismissed.

(M.S.KARNIK, J.)