

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 341 OF 2012

Nanasaheb G. Jagdale & ors. .. Petitioners
vs.
Uttam R. Jagdale & ors. .. Respondents

Mr. S.R. Moray h/f. Mr. V.S. Talkute for the Petitioners.
Mr.P.G. Chavan for the Respondents.

CORAM : M. S. SONAK, J.
DATE : 29 MARCH 2019.

P.C. :-

1] Heard Mr. Moray, learned counsel h/f. Mr. Talkute for the petitioners and Mr. P.G. Chavan, learned counsel for the respondents.

2] The challenge in this petition is to the order dated 4th November 2011 by which the learned Trial Judge has rejected the petitioner's application seeking amendment to the plaint.

3] Mr. Moray, learned counsel for the petitioners, submits that the amendment was necessitated on account of subsequent developments. He submits that the petitioners were dispossessed from the suit property pending the suit

and therefore, the amendment ought to have been allowed. He submits that if the amendment is not allowed, the same will result in multiplicity of proceedings which aspect has not been appreciated by the learned Trial Judge.

4] Mr. Chavan, learned counsel for the respondents, points out that the so called dispossession takes place in the year 2006 and the amendment applied for in the year 2011 that too after the trial had commenced. He submits that there is no jurisdictional error in the impugned order. Therefore, this petition may be dismissed.

5] On perusal of the impugned order as well as the records, I am satisfied that there is no jurisdictional error or any error at all in the impugned order. In the application seeking leave to amend, there is absolutely no explanation as to why such amendment could not be moved earlier, when it is the case of the petitioners that they were dispossessed in the year 2006. This means that there is no compliance whatsoever with the requirements of proviso to Order 6 Rule 17 of the CPC. In these circumstances, learned Trial Judge

was right in rejecting the belated application seeking leave to amend the plaint.

6] For the aforesaid reasons, this petition is dismissed.
There shall be no order as to costs.

(M. S. SONAK, J.)