

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

WRIT PETITION NO.434 OF 2018

Rajaram Krushna Gurav & Ors. ... Petitioners

Vs.

Mahadev Dadaso Nalawade
(since deceased) through L.Rs.

1A. Vijaymala Mahadev Nalawade & Ors. ... Respondents

.....

Mr. Tanaji Mhatugade for the Petitioners.

.....

CORAM : M. S. KARNIK, J.

DATE : 17th SEPTEMBER, 2019.

P. C.:

1. Heard learned counsel for the petitioners.
2. The petitioners are the original plaintiffs. The petitioners had filed a suit in the year 1997 for recovery of possession on the basis of mortgage deed executed on 10.6.1981. Almost after 18 years the plaintiffs filed an application for amendment of the suit by filing application below Exhibit 205 contending that the plaintiffs are in possession of the suit property. The Trial Court has observed that the plaintiffs averred in the plaint that it is in the year 1981 that the petitioners have handed over the possession of the suit property and by contending that there are subsequent events, they want to withdraw those

contentions. By the amendment it is now sought to be brought on record that the possession of the suit property was never handed over to the defendants. The Trial Court rejected the application for amendment holding that there is no subsequent event during the pendency of the suit and that the preparation of spot panchnama by Sub Divisional Officer can not be termed as happening of subsequent event. The amendment seeks to raise a completely contradictory plea as the suit filed by the plaintiffs is for possession. I see no reason to interfere with the order passed by the Trial Court. The Trial Court has given elaborate and cogent reasons while rejecting the application made by the plaintiffs for amendment.

3. The petition is rejected with no order as to costs.

(M. S. KARNIK, J.)