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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3908 OF 2019

Gorakhnath Maruti Kadam

..Petitioner.

V/s.

Suman Babn Kadam (since deceased)
through LRs.

..Respondents.

Mr.Dilip Bodake for the petitioner.

None for the respondents.

CORAM : M.S.SONAK, J.

DATE : APRIL 1, 2019

P.C.:-

Heard Mr.Bodake, learned counsel for the petitioner.

2. Challenge in this petition is to the two orders made by the learned trial Judge. By order dated October 15, 2018, learned trial Judge has not permitted the petitioner to exclude certain portions from the suit for partition. By order dated January 19, 2019, learned trial Judge dismissed the petitioner's application for amendment to the suit so as to include some properties in the suit for partition.

3. According to me, there is no legal infirmity in the orders made by the learned trial Judge. The suit was instituted in the year 2003. During the pendency of the suit, the petitioner has amended the

plaint on several occasions. The applications on which the impugned orders came to be made however are taken up after the completion of evidence in the suit and when the suit was posted for final argument. Since the suit was instituted in the year 2003, the provisions of Order 6 Rule 17 of the Code of Civil Procedure appears to be attracted. From the perusal of the applications, it is apparent that the petitioner has not at all demonstrated any diligence. Therefore, the learned trial Judge has quite correctly rejected both the applications made by the petitioner on the ground that such applications were filed at a highly belated stage, even otherwise there is no explanation whatsoever on the aspect of delay.

4. It cannot be said that the impugned orders are vitiated by any error or jurisdictional error or that there is any unreasonable exercise of discretion involved.

5. Accordingly, the petition is liable to be dismissed and is hereby dismissed. There shall be no order as to costs.

(M.S.SONAK, J.)