

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9726 OF 2019

Dhanaji Dinkar Sarak	.. Petitioner
Vs.	
Sayabu Ananda Sarak and ors.	.. Respondents

Mr.Vaibhav R.Gaikwad, for the Petitioner.

CORAM : M.S.KARNIK, J.

DATE :13th SEPTEMBER 2019

P.C. :

- . Heard learned Counsel for the petitioner.
2. Learned Counsel for the petitioner challenges the order passed below Exhibit 74 allowing the plaintiff's application for amendment. He urged that the said application is allowed after issues are framed by the trial Court on 12/02/2018. He would submit that there is no averment made in the application as regards due diligence and also as to why the application for amendment is made at such a belated stage. By the proposed amendment, the plaintiff has prayed that he may be granted

5/6th share in the suit property upon partition.

3. I have gone through the order passed by the trial Court. The trial Court while allowing the application has considered that the Courts should not adopt a hyper technical approach and liberal approach should be adopted, especially when other side can be compensated with cost. The trial Court has allowed the application subject to cost of Rs.1,500/-. The Suit of the plaintiff is for declaration and injunction. The declaration is sought that the suit property is purchased out of the joint family fund of the plaintiff and defendant.

4. By the proposed amendment, further declaration of partition of plaintiff's share in the suit property is sought. I see no reason to interfere with the discretion exercised by the trial Court in allowing the application for amendment. The Petition is rejected.

(M.S.KARNIK, J.)