

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.12949 OF 2016**

Shri. Deven Dhondi Dholam .. Petitioner

Versus

Shri. Rajendra Devidas Khandalekar & Ors. .. Respondents

Mr. Madhav J. Jamdar for petitioner.

CORAM : K.K. TATED, J.

DATE : 22 JANUARY 2019.

P.C:-

. Heard learned Counsel for the petitioner.

2. By this writ petition under Article 227 of the Constitution of India petitioner/original defendant is challenging order dated 16.09.2016 passed by Civil Judge, Junior Division, Malvan below Exhibit-35 and 36 in Regular Civil Suit No. 25 of 2014 allowing respondent/original plaintiff to carry out amendment in the plaint.

3. Learned Counsel for the petitioner submits that initially the respondent/original plaintiff filed suit for declaration and injunction. He submits that by way of said application respondents want to carry out amendment in the plaint claiming the joint ownership in respect of the suit property. He submits that by way of amendment respondent is changing the entire structure of the suit itself. These facts were not considered by the trial Court at the time of passing the impugned order dated

16.09.2016. Learned Counsel for the petitioner further submits that allowing the amendment will amount to withdrawal of the statements made in the original plaint. Hence, the said order is required to be set aside.

4. It is to be noted that if any order goes against the petitioner, the petitioner can raise the said issue in Appeal as per Section 105 of the Civil Procedure Code. In view of these facts, I do not find any reason to interfere in the impugned order passed by the trial Court.

5. Hence, writ petition stands dismissed.

6. No order as to costs.

(K.K.TATED, J.)