

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8325 OF 2019

Chetan Bhalchandra Nangare .. Petitioner
Vs.
Smt.Meena Bhalchandra Nangare and ors. .. Respondents

Mr.Ketan A.Dhavle, for the Petitioner.
Mr.S.L.Babar, AGP for State.

CORAM : M.S.KARNIK, J.

DATE : 27th SEPTEMBER 2019

P.C. :

. Not on board. Taken on board.

2. Heard learned Counsel for the petitioner. The petitioner is challenging the order passed by the trial Court allowing the application Exhibit 27 filed by the plaintiffs for amendment in plaint under Order VI Rule 17 of the Code of Civil Procedure, 1908. The petitioner is the original defendant No.1. The Suit is for partition. In the written statement filed by the defendant No.1 on 31/10/2018, there is a pleading of relinquishment deed dated 06/12/2012 executed by plaintiff

No.1 in favour of defendants. The proposed amendment is concerned with the denial of the plaintiff having executed the release deed dated 06/12/2012. The plaintiff was not aware of and had no knowledge of the release deed & denies to have executed it. According to the learned Counsel for the petitioner the trial Court allowed a time barred amendment.

3. In my opinion, the impugned order allowing the amendment does not warrant any interference. However in the facts of the present case, the issue whether the amendment is barred by limitation is kept open. Defendant No.1 is at liberty to raise the contention about issue of limitation in the additional written statement that he would be filing. The petitioner is permitted to file additional written statement within 4 weeks from today.

4. With these observations Petition is rejected.

(M.S.KARNIK, J.)