

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

WRIT PETITION NO. 8735 OF 2013

Seetabai Harishchandra Chaudhary & Ors.	...	Petitioners
V/s.		
Bhalchandra Shankar Chaudhary	...	Respondent

Mr. Sandesh Deshpande for the Petitioners.
Mr. Shriram S. Kulkarni for the Respondent.

CORAM : V.L. ACHLIYA, J.
DATE : 29th JANUARY, 2019.

P.C.:

This Writ Petition is filed challenging the order dated 23.08.2013 passed by 2nd Joint Civil Judge, Junior Division, Bhiwandi, in R.C.S. No.706 of 2010. By the impugned order passed below Exhibit 48, the learned Judge of the trial Court has allowed the application seeking amendment of the plaint.

2 Heard the learned Counsel for the Petitioners/Defendants and also learned Counsel representing for Respondent/plaintiff. Perused the order.

3 Learned Counsel for the Petitioners assailed the impugned order with contention that the Learned Judge of the trial Court has failed to take into account that the reliefs claimed by way of amendment, are barred by limitation. It is further contended that the Respondent has filed successive suits claiming different reliefs in respect of same property and the application seeking amendment was filed with a view to protract the hearing of the suit in spite of statement made before the Court in Writ Petition No.679 of 2012 to co-operate in expeditious disposal of suit.

4 On the other hand, the learned Counsel for the Respondent/Plaintiff supported the order passed by the trial Court with contention that the order passed is well within the bounds of law and suffers from no illegality so as to call for interference in exercise of writ jurisdiction under Article 227 of Constitution of India.

5 On due consideration of submissions advanced in the light of the order passed, I am of the view that the order passed is well reasoned. There is absolutely no illegality in the order passed so as to call for interference in exercise of writ jurisdiction. It is apparent from the face of order passed that the application seeking amendment to plaint was filed

in order to incorporate the facts which were discovered subsequent to filing of suit by the plaintiff. The amendment as allowed no way changes the complexion of the suit as well as the nature of reliefs claimed therein. The issue of limitation cannot be addressed while dealing with an application seeking amendment. The Defendants can seek consequential amendment to written statement and may raise issue of limitation which can be decided in suit. I am, therefore, not inclined to entertain the Petition. Accordingly, the Petition is dismissed.

(V.L. ACHLIYA, J.)