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IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 9604 OF 2019**

Pushpa Navinchand Kothari and othersPetitioners

V/s.

Naina Popatlal Jain W/o. Popatlal JainRespondents
and others

Ms. Savita Ganoo with Siddharth Shenoy with V. Mannadiar i/b
M/s. Mannadiar & co. for the Petitioner
Mr. Shreeganesh Khaire for respondent nos. 3 to 7.

CORAM : NTIN W. SAMBRE, J.

DATE : OCTOBER 11, 2019.

P.C.

Heard. Petitioner-plaintiff initiated Suit for declaration, mandatory and permanent injunction and recovery of amount. The Suit has reached at the stage of recording of evidence of the plaintiff when chamber summons 1575 of 2018 is moved seeking amendment to the plaint which is rejected by the order impugned dated 19/06/2019. While inviting attention of this Court to the nature of amendment sought, it is urged that amendment are only with an

intention to strengthen existing proceedings so as to have clarity in pleadings raised. It is further claimed that amendment is moved prior to 2002 amendment to the Code of Civil Procedure, 1908 and that being so, principle of due diligence will not be attracted in the case in hand. Relying on certain Judgments of Apex Court, a submission is made that such amendments which are clarificatory in nature needs to be allowed.

2 While contering aforesaid submissions, learned counsel for the respondent-defendant would support the order and would urge for dismissal.

3 Considered submissions.

4 It is not in dispute that Suit is pending since 1982. Already twice, the petitioner has carried out amendment to the plaint.

5 With the assistance, I have perused the copy of the plaint and amendment sought.

6 In my opinion, already there appears to be basic pleadings which are required for leading the evidence about the status of the disputed property. By virtue of amendment which is sought, petitioner, in my opinion is trying to prolong the suit proceedings.

7 In the aforesaid background, no case for interference is made out. Petition fails, dismissed.

[NITIN W. SAMBRE, J.]