

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH NAGPUR

WRIT PETITION NO.6053/2019

Tilakraj Bhagawansinh Rewadi & Oth

..VS..

Bhaskar Suderayya

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri A. A. Dhawas, Advocate for the petitioners

CORAM : Z.A.HAQ, J.

DATED : 3rd September 2019

Heard.

2] The respondent (Plaintiff) has filed civil suit against the petitioners praying for decree for partition and separate possession of his half share in the property alleged to have been purchased jointly by father of petitioners and respondent. The trial of the civil suit progressed and after recording of evidence of plaintiff was completed, the petitioners (defendants) had filed the application (Exh. 142) under Order 6 Rule 17 of the Code of Civil Procedure seeking permission to amend the written statement to bring on record subsequent events relating to partition amongst the defendants by themselves. This application is dismissed by the impugned order.

3] After examining the plaint, written statement and the application (Exh.142), I find that the proposed amendment is not necessary for adjudication of the

controversy in the civil suit. The plaintiff is seeking decree for partition and separate possession of his half share in the suit property. The *interse* partition amongst the defendants is not relevant for examining the claim of the plaintiff. In addition to this, learned trial judge has rightly observed that the defendants have not been able to wriggle out of the bar created by the proviso below Rule 17 of Order 6 of the Code of Civil Procedure.

In view of the above, I see no reason to interfere with impugned order.

Hence, writ petition is dismissed. No costs.

(Z.A.HAQ, J.)

Namrata