

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

939 WRIT PETITION NO.11766 OF 2019

RAMKISAN VITHOBA PINGLE AND OTHERS
VERSUS
SHANTABAI KASHINATH BHAWAR AND OTHERS

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Advocate for Petitioners : Mr. Kedar Balbhim R.
Advocate for Respondent Nos.1 to 9 & 11 : Ms. Ansari A.N.

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CORAM : V. K. JADHAV, J.
DATE : 29.01.2020

PER COURT :-

1. Heard finally with consent at admission stage.
2. The petitioners are the original defendants in the pending suit bearing Regular Civil Suit Nos.365 of 2008 instituted for partition and separate possession by the respondents-plaintiffs. The petitioners herein have filed application Exh.35 under Order 6 Rule 17 of the Civil Procedure Code for amendment in the suit. It appears that the proposed amendment by paragraph No.13-A as detailed in the application Exh.35 pertains to the subsequent events of purchasing the suit property from deceased Dhondabai. Admittedly, the petitioners are impleaded in the suit in the

capacity as a purchaser. In view of the proposed amendment would not cause any prejudice to the plaintiffs. It appears that the Trial Court has not considered the same. Hence, I proceed to pass the following order :

ORDER

- (i) Writ Petition is hereby allowed.
- (ii) The impugned order dated 18.04.2018 below Exh.35 in Regular Civil Suit No.365 of 2008 passed by the learned Civil Judge Junior Division, Ambad is hereby quashed and set aside.
- (iii) The application Exh.35 is hereby allowed in terms of its prayer clause.
- (iv) Writ Petition is accordingly disposed off.

(V. K. JADHAV, J.)

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vmk/-