

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

43 WRIT PETITION NO.1283 OF 2020

SURESH MUKUNDA MALI AND OTHERS
VERSUS
BHAGWAT TUKARAM MAHAJAN AND OTHERS

...
Advocate for Petitioners : Mr. Patil Mangesh G

...

**CORAM : ROHIT B. DEO, J.
DATED : 21th JANUARY, 2020.**

PER COURT:-

. By the order impugned, the application under Order VI Rule 17 preferred by the petitioners-defendants to amend the written statement is rejected.

2. By amending the written statement, in effect, the petitioners-defendants desire to lodge a counter claim and seek partition and separate possession of the suit property. Be it noted that the suit is for injunction simplicitor.

3. Several reasons are recorded by the Trial Court while rejecting the application under Order VI Rule 17. The first reason is that the trial has commenced. The second reason is that the application is delayed and is filed three years after the written statement. The third reason is that the amendment application is filed on the assumption that some revenue proceeding concerning the mutation entry and some observations in the interim order of the Trial Court

furnish a cause of action. The Trial Court has in essence held that no cause of action is disclosed.

4. Other than the reasons given by the Trial Court, I note that the defendants wish to join some persons as legal heirs, who are not parties to the suit.

5. It would be appropriate if the defendants file a comprehensive suit for partition, if so advised.

6. I do not see any error in the order impugned as would warrant interference in the writ jurisdiction. The writ petition is disposed of.

(ROHIT B. DEO, J.)