

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

914 WRIT PETITION NO.460 OF 2020

DATTATRAY NAMDEO GAVHANE AND OTHERS
VERSUS
BALIRAM NIVRUTI GAVHANE

...

Mr. D.A. Madke, Advocate holding for
Mr. A.B. Chalak, Advocate for the petitioners

...

CORAM : **Rohit B. Deo, J.**

DATE : 9th January 2020.

PER COURT :-

. The petitioners are the defendants in a suit brought for declaration and perpetual injunction qua suit property.

2. Before commencement of the trial, plaintiff moved an application under Order VI Rule 17 of the Code of Civil Procedure seeking to correct the description of the boundaries of the suit property. By the order impugned the application seeking amendment to the plaint is allowed.

3. Learned Counsel for the defendants would submit that the effect of amendment is that, totally different property is made subject-matter of the suit. I do not agree with this submission. In para-7 of the order impugned the trial Court

notes that the description which the plaintiffs seek to incorporate by amending the plaint, is consistent with the Exchange Deed dated 05.07.2016, which is placed on record by the defendants - present petitioners.

4. In any event, the respective contentions shall have to be adjudicated on merits and while considering the application for amendment, the Court is not expected to go into the merits of the amendment.

5. I do not see any reason to interfere with the order impugned in writ jurisdiction.

6. The petition is dismissed with liberty to the petitioners - defendants to seek amendment of written statement or to file additional written statement on the point.

(ROHIT B. DEO, J.)