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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION***

***WRIT PETITION NO.4062 OF 2019***

Mahadevi Annasaheb Jagtap

...Petitioner

Versus

Shilabai Popat Lambe and Ors.

...Respondents

Mr. R. H. Barge, for the Petitioner.

Mr. A. S. Gaikwad a/w Mr. Bhagwan Gawali i/b Mr. U. R. Agandsurve, for Respondent Nos.7 to 9.

***CORAM : REVATI MOHITE DERE, J.***

***DATE : 6<sup>th</sup> MARCH, 2020***

**P.C. :**

1. Heard learned counsel for the parties.
2. By this Petition, the Petitioner has impugned the order dated 4<sup>th</sup> December, 2018, passed by the learned 5<sup>th</sup> Joint Civil Judge, Senior Division, Solapur, below Exhibit – 35 in R.C.S. No.325 of 2016, by which, the petitioner's application for amendment to insert pleading in the plaint, was rejected.
3. Perused the papers including the impugned order. The petitioner is the original plaintiff who has filed a Suit for partition and

separate possession of her share as well as for a declaration that the Sale Deeds entered by Popat Lambe with Respondent Nos.7 to 9, were not binding on her. Respondent Nos.7 to 9 are the contesting respondents in the present petition. After evidence was led and when the matter was kept for final arguments in the trial Court, the petitioner (original plaintiff) filed the aforesaid application (Exhibit – 35) and sought an amendment in the plaint. The said application was resisted by Respondent Nos.7 to 9. The trial Court after hearing the parties rejected the said application. A perusal of the application filed by the petitioner seeking amendment does not show why the proposed amendment was not incorporated prior to the commencement of the trial. There is nothing in the application to show that despite exercising due diligence the proposed amendment could not be incorporated earlier. Infact, the learned counsel for the petitioner submitted that the petitioner was well aware of the same, however, it was her lawyer who failed to incorporate it earlier.

4. Considering the aforesaid, no infirmity can be found in the impugned order rejecting the petitioner's application seeking amendment of the plaint.

5. The petition is accordingly dismissed. The trial Court to proceed with the case, on its own merits, in accordance with law.

***REVATI MOHITE DERE, J.***