

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

18 CIVIL APPLICATION NO.6548 OF 2020
IN SA/355/2019
WITH
CA/4467/2020 IN SA/355/2019

UMESH NARAYAN PARIHAR AND OTHERS
VERSUS
GANPAT NAMDEO SATPUTE AND OTHERS

...

Advocate for Applicants : Mr. CV Bodkhe, Adv. h/for Mr.
Gore Ravindra Vitthal
Mr. R. G. Joshi, Adv. For Resp.No.1.

CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 26th July, 2021.

PER COURT :-

1. Heard learned Counsel for respective parties.
2. Though learned Advocate for Respondent No.1 is accepting the fact that the suit property has been transferred by way of sale-deed; yet he raises an objection on the ground that the possession is still with his client. He also submits that certain aspects were not considered by the First Appellate Court, especially, no prayer was made in respect of the sale deed in favour of Respondent No.1.
3. We do not want to go into the merits of the case and also the fact as to who is in possession now. At this stage, it is important to see whether title and interest in the suit property has been transferred or not? Further, as

(2)

regards the title is concerned, whether the person transferring had a right to transfer the title or not would be a question. But, then in absence of such document is allegedly executed, then interest in the property has been created. Under such circumstance, the proposed amendment, which is in respect of the subsequent event that has taken place on 17.7.2020, needs to be allowed. Accordingly, the application stands allowed in respect of carrying out the amendment is concerned. The amendment to be carried out within a period of two weeks. Respondent No.5 be added to the Second Appeal and after the amendment is carried out, issue notice to Respondent No.5, which is made returnable four weeks thereafter.

4. In the meantime, the appellants to remove the office objections. In case of failure on the part of the appellants to remove the office objections within the aforesaid period, then the appeal would stand dismissed automatically without further reference to the Court.

(SMT. VIBHA KANKANWADI)
JUDGE

BDV