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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10074 OF 2018

Mrs. Juliana Joseph D'Mello

....Petitioner

V/s.

Mr. Tutukulla Vayankattasubhaia
Mallayya and another

.....Respondents

Mr. R. V. Govilkar i/b Govilkar & Associates for the Petitioner

CORAM : NITIN W. SAMBRE, J.

DATE: JANUARY 20, 2021.

P.C.:

1] Though served, none appears for Respondent. In Appeal, Plaintiff-Respondent has moved an Application Exh. 15 for carrying out amendment to the Plaint. The nature of amendment sought to be carried out is in regard to change/correction in the plot numbers i.e. original Plot No. 65 now claimed to be Plot No. 8 & 9 by the Defendants.

2] It appears that ownership of the Plaintiff is not objected, however, in para 14 of the impugned Judgment, it has been observed by the court below that proposed lay out filed by the Plaintiff was not part and parcel of her sale deed, however, there is no sanction map so as to exactly identify the property/location of plot no. 65.

3] It is these observations on the basis of which Petitioner-Plaintiff is seeking amendment so as to specify the claim with detail.

4] The fact remains that the foundation was already laid by the Petitioner in the Plaint about the existence of the property and its ownership, what is sought to be clarified by way of amendment is plot number.

5] As such, in my opinion, no prejudice will be caused to the other side if the amendment is granted.

6] Even otherwise Respondents though served have not chosen to

appear before this Court. In that view of the matter, amendment as prayed stands allowed. Impugned order dated 03/01/2018 passed by District Judge-9, Pune in R.C.A. No. 803/2012 is hereby quashed and set aside. Petitioner to carry out amendment in the Suit proceedings within period of 4 weeks from today. Petition is allowed.

[NITIN W. SAMBRE, J.]