

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

WRIT PETITION NO. 12858 OF 2022

Satish Nana Deshmukh

.. Petitioner

Versus

Late Madhavrao Baburao Deshmukh
Through LRs Vandana Madhav
Deshmukh and others

.. Respondents

Shri Madhav M. Bhokariker, Advocate for the Petitioner.

**CORAM : SANDEEP V. MARNE, J.
DATE : 19TH DECEMBER, 2022.**

FINAL ORDER :

. By this petition, petitioner challenges order dated 19.07.2022 passed by the District Judge – 2, Amalner rejecting petitioner's application for amendment of the plaint.

2. In the suit that has been filed, the plaintiff has claimed declaration that sale deeds dated 14.12.1984 and 14.03.1985 are not binding on him. He has also claimed possession of the suit property. The suit has been dismissed on account of which R.C.A. No. 23 of 2016 has been filed before the District Court. In that civil appeal application was filed for amendment of plaint to seek a declaration that concerned sale deeds are not binding on the petitioner as well as to add defendants. Such amendment is premised on the contention that added defendants have ½ share in the property.

3. The original suit is not for partition. However, by amendment the same is sought to be converted into a suit for partition. The amendment clearly changes nature of suit. The worst thing is that the amendment is sought after the suit was dismissed. In such circumstances, in my opinion, there is no informity in the order passed by the District Judge. In case petitioner has grievance about partition, he would have to file separate proceedings. Writ petition is devoid of merits. Same is dismissed without any orders as to costs.

[SANDEEP V. MARNE, J.]

bsb/Dec. 22