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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO. 11797 OF 2018

SHRI. MADHUKAR SAUDAGAR PATOLE

....PETITIONER

V/s.

BABAN ABU AWAGHADE AND ORS

.....RESPONDENTS

Mr. Ajay A. Joshi Advocate for the Petitioner

**Mr. Dnyaneshwar W. Bhosale for Respondent nos. 23, 24 & 25
Advocate for the Respondents**

CORAM : NITIN W. SAMBRE, J.

DATE: MARCH 11, 2022.

P.C.:

1) The contention of the learned counsel for Respondent-Defendant is, the property which is sought to be purchased by the Petitioner-Plaintiff from the Respondent-Defendant is somewhat different than the one which was agreed to be sold.

2) As far as the aforesaid contention is concerned, the Court below has not dealt with the same, however, the Court has rejected the prayer for amendment on the ground that part of the property on

05/09/2012 was purchased by the Petitioner-Plaintiff and disclosure of same after 5 years amounts to suppression.

3) In the aforesaid perverse findings, I hardly see any convincing reasons to substantiate the said view. Rather it was intention of the Petitioner to bring the fact to the notice of the Court by carrying out amendment. As such, order impugned dated 07/04/2018 passed below Exh. 87 by 2nd Jt. Civil Judge Jr. Division, Pandharpur is quashed and set aside. Application is restored to file. The Trial Court is directed to decide the application afresh having regard to the fact that (a) the trial in the suit has not advanced and (b) whether property of which incorporation is sought by way of amendment is same as that of one which the Petitioner has agreed to purchase.

4) Petition stands disposed of in the above terms.

[NITIN W. SAMBRE, J.]