

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

WRIT PETITION 6365 OF 2022

Smt.Tarabai d/o. Vithoba Salunkhe & Ors. ...Petitioners
vs.
Smt.Swati Navnath Salunkhe & Ors. ...Respondents
Mr.Rati S. Sinhasane for Petitioners.

CORAM : ROHIT B. DEO, J.

DATED : 13 JULY 2022

P.C. :

1. In Special Civil Suit 262/2021, the plaintiffs are permitted to amend the plaint indubitably before the commencement of the trial. The defendants are assailing the order permitting the plaintiffs to amend the plaint, *inter alia* on the ground that they attempted to create a new cause of action. It is further suggested that the suit does not claim partition and the relief sought is declaration, perpetual injunction and enforcement of the right of preemption.
2. All that is allowed by the learned trial court is proposed amendment which incorporates the averment that after the filing of the suit, more particularly on 24.9.2021, the defendant 3 attempted to alienate the suit property. On such premise, the plaintiffs sought to incorporate the said averment and consequential relief.
3. I see no error whatsoever in the trial court's order which permits the proposed amendment. I cannot look into the merits of the amendment. While the learned Counsel for Petitioners-defendants does

make an attempt to show that the relief could not have been sought, that ultimately is a matter which the learned trial court shall consider at an appropriate stage. The other amendment which is permitted pertains to certain inadvertent errors in referring to the status of the parties. I need not dilate on that part of the amendment.

4. There is no reason to interfere with the order impugned in the writ jurisdiction.

5. The writ petition is dismissed.

(ROHIT B. DEO, J.)