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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1422 OF 2021

Rupchand Parasram Rathod and Others

PETITIONERS

VERSUS

Kaushalyabai Sitaram Rathod

RESPONDENT

.....

Mr. Ameet R. Vaidya, Advocate for the petitioners

Mr. B. V. Thombre, Advocate for the respondent

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 19th JULY, 2023

ORDER :

1. The petitioners are aggrieved by order dated 21st December, 2019 passed by 8th Joint Civil Judge, Senior Division, Aurangabad below Exhibit-62 in Regular Civil Suit No. 563 of 2016, thereby allowing the application filed by the plaintiff – respondent No.1 under Order VI, Rule 17 of the Civil Procedure Code, seeking amendment in the plaint.

2. Heard learned advocate for the petitioners and the learned advocate for the respondent. Perused the memo of writ petition, documents annexed along with it and the impugned order.

3. Regular Civil Suit No. 563 of 2016 is filed by the respondent - plaintiff seeking permanent injunction restraining the defendants from causing obstruction or interference in the possession of the plaintiff over the suit property.

4. Admittedly, the application for amendment is filed by the plaintiff, after written statement is filed and issues are framed and when the matter was posted for evidence. In the plaint, the plaintiff has claimed that she and her husband have jointly purchased the suit property. It is also pleaded that the suit property is purchased from her own income. By way of amendment, the plaintiff has sought deletion of reference of her husband and it is claimed that she has purchased the suit property from her *Stridhan*. Said application is allowed by the Trial Court, hence the present petition.

5. *Prima facie* there appears substance in the contention of the petitioners that the plaintiff has taken inconsistent stands and is trying to withdraw the admissions given in the plaint. However, at this stage, this Court is not inclined to interfere in the impugned order as the Trial Court is seized of the matter.

6. Writ petition is, therefore, disposed of by keeping the merit of the amendment so also the issue of limitation open, which the petitioners may contest at the time of hearing of the suit.

[NITIN B. SURYAWANSHI]
JUDGE

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