

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

**WRIT PETITION NO.14809 OF 2019**

Vishal Subhash Haiwane

.... Petitioner

Versus

Subhash Irappa Haiwane  
and others

.... Respondents

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Mr. Tukaram M. Venjane, Advocate for the Petitioner

Mr. V.S. Valse, Advocate for Respondent Nos. 1 to 7 and 9 to 15 & 18

Mr. V.M. Vibhute, Advocate for Respondent Nos.16 and 17

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**[CORAM : NITIN B. SURYAWANSHI, J.]**

**DATE : 08<sup>th</sup> MARCH, 2023**

**ORDER :**

1. By this petition, filed under Article 227 of the Constitution of India, the petitioner challenges the order passed by the learned Civil Judge, Senior Division, Nilanga below Exhibit-108 in Regular Civil Suit No.223 of 2017, thereby partly allowing the application filed by the petitioner under Order 06 Rule 17 of the Code of Civil Procedure.

2. The petitioner/plaintiff has filed suit for partition and separate possession by impleading defendant Nos. 9 to 22 in the suit. He sought proposed amendment as is mentioned in paragraph 2-अ to 2-ए of the application. The trial Court has

partly allowed the said application and permitted the petitioner to carry out proposed amendment as sought in para No.2-अ, क, ड, and para 2-ए. Rest of the amendment is denied. Hence, the present petition.

3. Having heard the learned advocate for the petitioner and the learned advocate for the respondents, and on perusal of the grounds raised in the petition, and the documents placed on record, it appears that proposed amendments deserve to be allowed.

4. Learned advocate for the respondents strenuously opposed the petition contending that the said amendment will change the nature of the suit.

5. In view of the settled legal position, merit of the amendment cannot be gone into at this stage. The respondents have a right to oppose the amended pleadings by filing additional written statement, and they can also contest the matter on merits of the amended pleadings. The suit is at initial stage, and allowing the amendment would avoid multiplicity of proceedings. In this view of the matter, the trial Court ought to have allowed the proposed amendment.

6. In the result, the writ petition is allowed.

7. The impugned order dated 17.10.2019 passed by the Civil Judge, Senior Division, Nilanga, below Exhibit-108 in Regular Civil Suit No.223 of 2017 is hereby quashed and set aside.

8. The application below Exhibit-108 is hereby allowed subject to condition that the petitioner to pay costs of Rs.5,000/- to the respondents in the trial Court.

9. The suit is expedited.

**[ NITIN B. SURYAWANSHI ]**  
**JUDGE**

S.P. RaneP