

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 16001 OF 2022

Shevantabai Gopal Holkar & Ors.

.. Petitioners

Versus

Leelabai Devram Rajguru & Ors.

.. Respondents

-
- Mr. Sushant S. Prabhune for Petitioners
 - Mrs. Savita A. Prabhune for Respondent
-

CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 20, 2023

P.C.:

1. Heard Mr. Sushant Prabhune, learned Advocate for Petitioner and Mrs. Savita A. Prabhune, learned Advocate for Respondent.

2. Perused the impugned order dated 15.10.2022 passed below Application under Exh. 23 in R.C.S. No. 418 of 2015. The application was filed under Order VI, Rule 17 of C.P.C. for seeking amendment to the plaint. The suit was filed for seeking permanent injunction on the basis of possession by the Plaintiffs. It is their contention that their possession is based on a registered sale deed. The application seeking amendment sought a declaration that the said sale deed was not binding on the Plaintiffs as well as on the revenue authorities considering the order dated 06.01.1998 passed by learned Tehsildar. Admittedly, the suit was at the hearing stage when the present

application was moved below Exh. 23. Further admittedly, the amendment sought did not pertain to any subsequent development which would be germane to the cause of action in the suit and in that view of the matter, the learned Trial Court held that allowing such an application would change / alter the nature of the suit which would go against the tenet of Order VI, Rule 17 of the C.P.C. The impugned order has correctly appreciated the issue and is a reasoned order. It does not call for any interference. The same is sustained.

3. In view of the above, Writ Petition is dismissed. Needless to state that the right of the Petitioners to take out appropriate proceedings on the basis of the registered sale deed before the appropriate forum / court is not curtailed. All contentions of the parties are expressly kept open.

[MILIND N. JADHAV, J.]

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by RAVINDRA
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