



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

WRIT PETITION NO. 8603 OF 2024

Shivraj Digambar Gawli

VERSUS

Vimalbai Dhondiba Sadjir And Others

Mr. S. B. Solanke, Advocate for petitioner

CORAM : R. M. JOSHI, J.

DATE : 09th January, 2025

PER COURT :-

1. This petition takes exception to the impugned order passed below Exhibits 238, 240 and 257 in Regular Civil Suit No. 167/2007 whereby the prayers to add all parties stood refused. Petitioner/plaintiff filed RCS No. 167/2007 for partition, possession and declaration. He claims that his father sold property without legal necessity and under influence of liquor. It is also claimed that sale deed was executed by playing fraud.

2. It is the case of the plaintiff that it was revealed to him that one more ancestral property was sold to Haibatrao. This Haibatrao later on executed a gift deed in favour of Gopal. The plaintiff filed application Exhibit 238 to add Haibatrao as a party to the suit. As Haibatrao died during the pendency of the said application, application Exhibit 257 came to be filed to bring his legal heirs on record. An application Exhibit 240

was filed seeking amendment to plaint for incorporating the averments which ultimately was aimed at challenging sale deed dated 22.03.1996 and subsequent gift deed executed by Haibatrao. These applications came to be rejected by trial Court.

3. Learned counsel for the petitioner submits that since there was no knowledge by the plaintiff with regard to the sale of one of the ancestral properties to Haibatrao, he is justified in making application for amendment challenging execution of the sale deed and the consequent gift deed executed by Haibatrao in favour of Gopal.

4. There cannot be dispute with regard to the fact that any suit filed now challenging sale deed dated 23.02.1996 is time barred. Once such suit is not tenable, question of permitting amendment to that effect does not arise. As a result thereof, question of allowing applications Exhibit 238, 240 and 257 does not arise. The trial Court has rightly rejected the applications and no perversity is formed therein. This Court, therefore, finds no substance in the petition.

5. Petition stands dismissed since sans merit.

(R. M. JOSHI, J.)

bsj