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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9660 OF 2018**

Shri Chainsukh S. Gandhi .. Petitioner

Versus

Smt. Meerabai Kaluram Lokhande
& Ors. .. Respondents

Mr. Prashant P. Prabhu for petitioner.

CORAM: ALOK ARADHE, CJ.

DATE: 29th JULY, 2025

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ORAL ORDER:

1. In this writ petition under Article 227 of the Constitution of India, the petitioner/plaintiff has assailed the validity of the order dated 24th October, 2017 passed by the trial Court by which application seeking amendment of the plaint for impleading the purchasers *pendente lite* of the suit property as defendants has been rejected.

2. Facts giving rise to filing of the instant writ petition, in nutshell, are that the petitioner/plaintiff had filed suit, namely, Regular Civil Suit No. 49 of 2012 seeking relief of specific performance of the agreement dated 14th September, 1991 and 14th September, 1993. The trial Court, on application for temporary injunction, on 15th March, 2003 passed an order directing defendant nos.1 to 4 to maintain status quo and not to create third party interest. However, in violation of the interim order, the subject property was sold by a sale deed dated 23rd September, 2011. The petitioner acquired knowledge about the aforesaid sale deed in the month of

September, 2017. The petitioner, thereupon, filed an application under Order 6 Rule 17 of Civil Procedure Code, 1908 for addition of subsequent purchasers of the suit property. The aforesaid application has been rejected by the trial court on the ground that the petitioner/plaintiff has filed an application to fill up the lacunae in the evidence. Hence, this writ petition.

3. I have heard the learned counsel for the petitioner at length and perused the record. The trial court ought to have appreciated that the proposed amendment was necessary to fair and complete adjudication of the controversy involved in the suit and was based on subsequent events. The suit property was alienated on 23rd September, 2011 in violation of the interim order granted by the trial court on 15th March, 2003. The petitioner/plaintiff, during the course of cross-examination learnt that the suit property was sold in violation of the order of injunction. Thereupon the petitioner filed an application seeking amendment of the plaint.

4. The discretionary power to deal with the prayer for amendment has been exercised erroneously. The impugned order, therefore, suffers from error apparent on the face of the record. It is accordingly quashed and set aside. The application for amendment is allowed.

5. The writ petition is disposed of accordingly.

6. Let a copy of this order be forwarded to the Trial Court forthwith.

(CHIEF JUSTICE)