



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1538 OF 2025**

Devdatta Shivaji Chavan and Anr.	...	Petitioners
versus		
Tukaram Ganapati Chavan	...	Respondent

Mr. Nikhil N. Pawar, for Petitioners.

CORAM: N.J.JAMADAR, J.

DATE : 20 FEBRUARY 2025

P.C.

1. Heard the learned Counsel for the Petitioners.
2. The challenge in this Petition is to an order dated 26 July 2024 passed by the learned Civil Judge, Islampur, whereby the application preferred by the Respondent-Plaintiff for the amendment in the plaint so as to incorporate the prayer of partition and separate possession of the portion of the suit property, which the Respondent claimed to have acquired, and, consequently change in the cause title of the suit, came to be allowed.
3. Initially, the Respondent had instituted a suit, purportedly under Section 22 of the Specific Relief Act, for partition. Subsequently, the Respondent preferred an application (Exh. 53) seeking amendment in the plaint so as to incorporate averments that during the pendency of the suit, the Defendants committed encroachment over the Plaintiff's land and a decree for delivery of possession of the encroached portion. The said application was allowed by an

order dated 1 February 2020.

4. It seems that the said order was not challenged by the Petitioners. The proposed amendment seems to be essentially consequential to the amendment carried out pursuant to the order dated 1 February 2020. Though the issues have been framed, the trial has not yet commenced. Therefore, the bar under the proviso to Order VI Rule 17 of the Code of Civil Procedure, does not come into play.

5. In this view of the matter, since the amendment has been allowed at a pre-trial stage and the proposed amendment appears to be essentially consequential to the earlier amendment, this Court does not find any justifiable reason to entertain the above Petition in exercise of supervisory jurisdiction.

6. The Writ Petition, thus, stands dismissed.

(N.J.JAMADAR, J.)