



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

45 WRIT PETITION NO. 14849 OF 2021

Manohar Rakhmaji Dhobale Through GPA Haridas Manohar Dhobale

VERSUS

Narhari Rakhmaji Dhoble Died Lrs. Dattatraya Narhari Dhoble & Others

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Advocate for the Petitioner : Mr. Santosh N. Patne

Advocate for Respondent Nos.2 to 4 : Mr. R. D. Dhawale

Advocate for Respondent Nos.6 & 8 : Mr. A. D. Kotkar

Advocate for Respondent Nos.1 to 3 :R. V. Naiknawane

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WITH

CIVIL APPLICATION NO. 12673 OF 2025

IN

WRIT PETITION NO. 14849 OF 2021

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CORAM : SIDDHESHWAR S. THOMBRE, J.

DATE : 23.03.2026

PER COURT :

1. Heard the learned counsel for the respective parties.
2. The petitioner is challenging the order dated 22.11.2021 passed below Exhibit-58 by the learned Civil Judge, Junior Division, Tuljapur, in Regular Civil Suit No.246 of 2012, whereby the application filed by the petitioner under Order VI Rule 17 of the Code of Civil Procedure came to be rejected.
3. The learned counsel for the petitioner submits that the petitioner (original plaintiff) has instituted the aforesaid suit for partition and separate possession of the ancestral properties. After service of summons,

the defendant Nos.1 to 4 appeared and filed their written statement. The petitioner thereafter preferred an application below Exhibit-58 seeking amendment of the plaint for inclusion of certain ancestral properties, namely Gat Nos.198, 199, 206, 200/1, 200/2 and 201. It is further contended that respondent No.1 has alienated some of the ancestral properties in favour of respondent Nos.5 to 8 without consent of the other coparceners and without any prior partition. The learned Trial Court erroneously rejected the said application.

5. Per contra, the learned counsel for the respective respondents support the impugned order and contended that the proposed amendment would change the nature of the suit. It is further submitted that an earlier suit bearing RCS No.155 of 1986 was filed, which came to be withdrawn in view of a compromise, and therefore, the present amendment cannot be permitted.

6. Having considered the submissions advanced and upon perusal of the impugned order, it appears that the suit filed by the petitioner is for partition and separate possession of ancestral properties. By way of the proposed amendment, the petitioner intends to incorporate additional properties which are claimed to be ancestral in nature and also to challenge the alienations made by respondent No.1.

7. In a suit for partition, inclusion of all ancestral properties is necessary for complete and effective adjudication of the dispute. The proposed amendment does not change the nature of the suit but rather

facilitates proper determination of the real controversy between the parties. The respondents would have full opportunity to contest the said pleadings. In that view of the matter, the learned Trial Court ought to have allowed the amendment. Hence, I proceed to pass following order:

ORDER

- (i) The Writ Petition is allowed.
- (ii) The order dated 22.11.2021 passed below Exhibit-58 by the learned Civil Judge, Junior Division, Tuljapur, in Regular Civil Suit No.246 of 2012 is hereby quashed and set aside.
- (iii) The application for amendment (Exhibit-58) stands allowed.
- (iv) Amendment be carried out within a period of two weeks from today.
- (v) The respondents are at liberty to file additional written statement, if any.
- (vi) The Civil Application, if any, stands disposed of.

[SIDDHESHWAR S. THOMBRE]
JUDGE