

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1810 OF 2016

MR. BHIMGONDA SATGONDA PATIL)...PETITIONER

V/s.

MR. RAVINDRA NEMINATH SHETE @)
BALAPPA / BALASO DEVENDRA SHETE)...RESPONDENT

None for the Petitioner.

None for the Respondent.

CORAM : ABHAY AHUJA, J.

DATE : 21st NOVEMBER 2022

P.C. :

1 None for the parties.

2 This is a petition challenging the judgment and order dated 17th April 2015 passed by the Civil Judge, Senior Division, Kolhapur, pursuant to which the said Court rejected the application filed under Order 6 Rule 17 of the Civil Procedure

Code (CPC) holding that the proposed amendment was not necessary to determine the real question of controversy.

3 As per the impugned order, the petitioner, at the time of instituting the said proceedings, was well aware of sale of Gat No.304/C in favour of the proposed opponent, but waited till 6th February 2015 to file the application under Order 6 Rule 17 when the trial had commenced. The trial Court has observed that there is no explanation for the delay in filing this application. Holding this, the trial Court came to the conclusion that the proposed amendment is not necessary to determine the real question of controversy and rejected the application.

4 Rightly or wrongly, the said property has already been sold to one Shri. Vijayinha Balwant Yadav and Vijaykumar Mugutrao Pol and their names have been entered in the owners' column of the 7/12 extract. Prima facie, it appears that they were necessary parties for determination of rights in respect of the said property, in an application for probate / letters of administration under Section 276 of the Indian Succession Act.

5 In this view of the matter, issue notice to respondent, returnable on **19th December 2022.**

6 List on **19th December 2022.**

(ABHAY AHUJA, J.)