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FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD.

WRIT PETITION NO.: 10970 OF 2010

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders.

Court's or Judge's orders.

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1. Heard Advocate Mr. Venjane for
Petitioner/ plaintiff, Advocate Mr. D. G.
Chewale for Respondent Nos.3 and 4.
Respondent Nos.1 and 2 have chosen not to
appear though they are served with notice.

2. Shri Chewale points out that Respondent
Nos.3 and 4 are subsequent purchasers.
Petitioner and Respondent Nos.1 and 2 are
residing together and are delaying the
adjudication of civil suit. He points out
that the trial Court has already commenced
trial and for valid reasons application has
been rejected. He also makes a grievance
that the deceased father of petitioner had
filed a suit for reconveyance against
Respondent Nos.3 and 4 and it was dismissed
in default in 2009 itself. According to him,
it is nothing but to harassment of Respondent
Nos.3 and 4.

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3. Learned counsel for petitioner states that there is no prejudice caused to Respondent Nos.3 and 4 as they are already in possession of the property allegedly purchased.

4. In this situation, as suit is for partition and the other contesting parties have chosen not to oppose the petition and similarly no prejudice is caused to Respondent Nos.3 and 4 I am inclined to allow application for amendment. The amendment only adds house property as joint family property available for partition.

5. Accordingly, prayer made in Exhibit-74 is granted. Trial Court to permit petitioner/ plaintiff to carry out the amendment. Liberty to Respondents to carry out consequential amendment, if any, thereafter. At this stage, Shri Chewale points out that suit is not of 2008 but is of 2005. He states that thrice the amendment

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was made. The petitioner shall pay costs of Rs.1,000/- each to Respondent Nos.3 and 4 within a period of two weeks from today, before the trial Court and, thereafter, the trial Court shall permit the petitioner to carry out the amendment. Petition is disposed of in above terms. No costs.

[B.P.DHARMADHIKARI, J.]

Dated:31/01/2011.
ans/10970