

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

LETTER PATENT APPEAL NO.71 OF 2013
WITH CA/5499/2013 IN LPA/71/2013

ANNA KISANRAO VYAVHARE
VERSUS
SAHEBRAO KISANRAO DHAS AND ANOTHER

...

Advocate for Appellant : Mrs. Kulkarni M.A.

**CORAM : R.M.BORDE &
P.R.BORA, JJ.**

DATE : 5th February, 2015.

PER COURT :

1) An application, tendered by the appellant in Regular civil Suit No.351/2009, seeking amendment of the plaint, at Exhibit-135 came to be rejected, by order dated 6.4.2012 and the writ petition, challenging the said order of rejection of the application tendered by the appellant, being Writ Petition No.3802/2012, has also been rejected by learned Single Judge of this court by order dated 26.2.2013.

2) On perusal of the orders passed by the trial court as well as learned Single Judge, it is noticed that the application (Exhibit-135), seeking amendment of the plaint was tendered much after settlement of the issues and after recording of evidence of six witnesses on behalf of the plaintiff. The Trial court as well as learned Single Judge have recorded a finding that the plaintiff has not shown due

diligence in tendering the application and in view of the limitation prescribed under the proviso to Rule 17 of Order VI of Civil Procedure code, the application has not been rightly entertained.

3) In our opinion, the learned Trial court and learned Single Judge have adopted reasonable approach in the matter and there is no illegality occurring in the orders apparent on the face of the record. The LPA is devoid of substance and stands dismissed. Pending civil applications, if any, do not survive and the same stand disposed of.

(P.R.BORA)
JUDGE

(R.M.BORDE)
JUDGE

bdv/