

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

WRIT PETITION NO.11416 OF 2015

Shaikh Juman Chaus s/o
Shaikh Yahiya,
Age 57 years, Occu. Retired,
R/o Hussain Colony, Garkheda,
Aurangabad

.. Petitioner

Versus

Narayan s/o Shamlal Sarosiya,
Age 54 years, Occu. Business,
R/o Pandariba, Aurangabad

.. Respondent

Mr A.D. Kasliwal, Advocate for petitioner

CORAM : N.W. SAMBRE, J.

DATE : 30th November 2015

PER COURT

1. Two orders are impugned in the present petition at the behest of appellant, who suffered decree for eviction. The first order is passed at Exh.17, an application moved under Order 41, Rule 27 of the Code of Civil Procedure and another application Exh.13 under Order VI, Rule 17 of Code of Civil Procedure, for amendment of plaint.

2. So far as the application Exh.17 for production of documents is concerned, the bare perusal thereof depicts that the very requirement of Order 41, Rule 27 of the Code is not pleaded qua the nature of documents which were sought to be produced. Petitioner is also not coming forward with a case as to what prevented him from production of the documents during the trial in the suit. No pleadings to that effect are noticed.

3. In my opinion, the order passed below Exh.17 on 13th October 2015 rejecting the application does not called for interference.

4. So far as the other order rejecting the application Exh.13 for amendment moved under Order VI, Rule 17 is concerned, the appellate Court was alive to the fact that the similar prayer for amendment was rejected during the trial which order was upheld up to this Court. As the appeal is a continuation of suit, the same will operate as *res judicata* against the petitioner.

5. In view thereof, no interference case for interference is made out. Writ Petition fails on both the counts, as such stands dismissed.

(N.W. SAMBRE, J.)

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