

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.6946 OF 2014

Prafulla Parshuram Deolekar

.. Petitioner

Versus

Tukaram Govind Dabhole

.. Respondent

Mr. Sumit S. Kothari, for the Petitioner.

CORAM : R.M. SAVANT, J.

DATE : 17th FEBRUARY, 2015

PC.

1. The Writ Jurisdiction of this Court is invoked against the order dated 10.06.2014 passed by the Learned Joint Civil Judge, Junior Division, Dapoli, by which order the application Exh.73 for amendment of the written statement came to be rejected.

2. It is required to be noted that the suit is of the year 2009 and has progressed and was at the stage where the Defendant i.e. the Petitioner herein had completed the evidence of four witnesses and it is thereafter that the instant application Exh.73 came to be filed for amendment of the plaint so as to incorporate averments relating to the account mentioned in the notebook as regards amounts paid by the Defendants for carry out repairs in the suit premises. The said amendment was objected to on

behalf of the Plaintiff. The Trial Court has rejected the application inter-alia on the ground that no such defence was raised in the original written statement as filed and therefore, the attempt of the Defendant to connect some account maintained in the notebook to the suit premises cannot be permitted. The Trial Court has also adverted to the fact that the suit is at the stage where the Plaintiff's witnesses have been exhaustively cross-examined and the Defendant has led his own evidence which as indicated above is by examining four witnesses in support of his case. Having regard to the well settled principle applicable to Order 6 Rule 17 of the CPC, the order impugned in the present Petition rejecting the application for amendment of the written statement cannot be found fault with. Reliance is placed by the Learned Counsel for the Petitioner on the judgment of the Apex Court in (2007) 6 SCC 167 in the matter of **Andhra Bank Vs. ABN Amro Bank N. V. and others** is misplaced as the facts before the Apex Court can be distinguished from the facts of the present case. The Writ Petition is accordingly dismissed.

[R.M. SAVANT, J]