

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

WRIT PETITION STAMP NO.29574 OF 2014

Nandkishore Ranjit Chavan : Petitioner
versus
Dharma Pandu Rathod and ors. : Respondents.

Mr. D S Patil for the Petitioner.
Mr. S S Shah for the Respondent Nos.1 to 14.

CORAM : R. M. SAVANT, J.
DATE : 23rd September 2015

P.C.

1 The writ jurisdiction of this Court is invoked against the order dated 02/08/2014 passed by the learned 9th Civil Judge, Junior Division, Solapur by which order the Application (Exhibit 47) for amendment of the written statement to the counter claim filed by the original Defendant came to be allowed.

2 The Petitioner herein is the original Defendant in the suit in question which has been filed for declaration and injunction in which suit the Petitioner herein has filed his counter claim. To the said counter claim the Respondents herein have filed their written statement. In the affidavit of evidence certain statements are appearing in paragraph 6 of the affidavit of evidence of the Defendant. It is in the context of the said averments that the application was filed by the Respondents original Plaintiff for amendment of

their written statement to the counter claim.

3 The Trial Court having regard to the statement which is appearing in the affidavit of evidence and also having regard to the amendment sought vide paragraph 3A observed that the said amendment cannot be said to something which is beyond the pleadings.

4 Having regard to the nature of the amendment sought it can only be said that the amendment takes of from the statement which is appearing in paragraph 6 of the affidavit of evidence. It is well settled that consideration of the application for amendment of the written statement is different than the consideration of the application for amendment of the plaint. In my view, no case for interference in the writ jurisdiction of this Court is made out. The above Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]

Certified to be true and correct copy of the original signed Order.