

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

WRIT PETITION NO.1440 OF 2015

M/s. Anil Suppliers

.. Petitioner

Versus

M/s. Parshuram Agro Oils

.. Respondent

**Mr. Y. Gogari a/w Mr. D. M. Thakur i/by Dave & Co., for the Petitioner.
None for Respondent.**

CORAM : R.M. SAVANT, J.

DATE : 17th FEBRUARY, 2015

PC.

1. The Writ Jurisdiction of this Court is invoked against the order dated 13.01.2015 passed by the Learned 7th Joint Civil Judge, Senior Division, Pune. The said application Exh.78 was moved under Order 7 Rule 11(d) of the CPC on the ground that there is a mis-description of the Plaintiff in the suit. The application has been rejected on the ground that the Plaintiff has moved an application for amendment of the plaint which was simultaneously taken up with the instant application Exh.38. The Trial Court has further observed that the said issue was not raised by the Defendants in their written statement at the inception. The Defendants have cross-examined the Plaintiff and therefore, the suit cannot be rejected by having recourse under Order 7 Rule 11(d) of the CPC at the

said stage. The Trial Court has also observed that under Order 7 Rule 11(d), the suit which is barred by law can be dismissed, but cannot be dismissed when there is a mis-description. Having regard to the reasons mentioned in the impugned order, no case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M. SAVANT, J]