

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

WRIT PETITION NO.2185 OF 2015

Shri. Dattu Jagannath Mane

.. Petitioner

Versus

Sou. Vijaya Dilip Sul

.. Respondent

Ms. Savita A. Prabhune, for the Petitioner.

CORAM : R.M. SAVANT, J.

DATE : 28th SEPTEMBER, 2015

PC.

1. The Writ Jurisdiction of this Court is invoked against the order dated 03.12.2014 passed by the Learned Joint Civil Judge Senior Division, Baramati, by which order the application Exh.48 for amendment of the Written Statement came to be rejected. The suit in question has been filed by the Respondent No.1 herein for specific performance of the contract in respect in respect of sale of land. The consideration mentioned in the document of which specific performance sought is Rs.44,00,000/-. It appears that the suit notice came to be issued to the Petitioner and in reply to the said notice the Petitioner only referred to one of the documents which is covered by the amendment sought. By the amendment sought the Defendant seeks to rely upon two notarized documents dated 03.03.2012 and 05.03.2012. By which notarized documents according to the Defendant No.2 there is novation of the

contract and that in terms of the said documents the consideration payable is distinct and different than the one mentioned in the document of which the specific performance is sought. The Defendant has also filed his Written Statement, in which Written Statement there is no whisper as regards the said two documents. It seems that the application for temporary injunction filed by the Plaintiff was also considered by the Trial Court. In the reply filed to the said application, there is no mention of the said two documents. It is having regard to the aforesaid facts that the Trial Court did not deem it appropriate to allow the instant application Exh.48 filed for amendment of the Written Statement. The Trial Court was of the view that there is no plausible explanation given by the Defendant as to why the said facts have not been mentioned in the Written Statement which is filed or in the reply to the application for temporary injunction. Though it is trite that the consideration of an application for amendment of the Written Statement is different than an application for amendment of the plaint, in my view, having regard to the facts of the present case the order passed by the Trial Court rejecting the application for amendment of the Written Statement cannot be found fault with. Hence, no case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M. SAVANT, J]

CERTIFICATE

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