

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6517 OF 2014

Chunnilal T. Satra .. Petitioner
vs.
Nalini G. Khatri and ors. .. Respondents

Mr. Tejesh Dande i/b Tejesh Dande & Associates for the Petitioner.
Mr. Yuvraj P. Narkar for Respondent Nos.4 & 6.

CORAM : M. S. SONAK, J.
DATE : 7 May, 2015.

P.C. :-

1] This petition questions the order dated 24 January 2014 made by the Joint Civil Judge Junior Division, Kolhapur declining leave to file an additional written statement to the petitioner.

2] There is absolutely no merit in the present petition. In fact, the present petition, is an abuse of process of Court. In the first place, there is no provision for filing of an additional written statement, unless of-course such additional written statement is in response to the amended plaint. The learned counsel for the petitioner, however, submits that the application should be treated as one seeking amendment of written statement.

3] If such application is so construed, then the reason as stated for the proposed amendment is that the premises in-question have started leaking and this being a subsequent event, amendment is necessary. Again, the plea is totally misconceived. The suit for eviction, is basically, on the ground that the plaintiffs require the suit premises for their *bonafide* personal use. In the context of such a

plea, the so called subsequent event that the suit premises have begun to leak, is totally irrelevant. That apart, if the additional written statement or the schedule of amendment is perused, then it is apparent that there is hardly any reference to so called subsequent events of leakage of the premises. The additional written statement/schedule of amendment proceeds to make averments as to why the *bonafide* requirement plea raised by the plaintiffs is untenable. Clearly, therefore, under the guise of seeking leave to file an additional written statement/amendment to the written statement on the ground of some alleged subsequent event, the petitioner seeks to set out various defences, without in any manner explaining as to why such defences could not have been raised earlier.

4] It is pertinent to note that this amendment was applied for at the stage when the plaintiffs had concluded their evidence as also final arguments in the matter. The evidence of the petitioner has been closed by orders dated 28 April 2014 and 19 August 2014. In the connected Writ Petition No. 8935 of 2014, this Court has observed that although the conduct of the petitioner was not very candid, since the order of closure of evidence operates harshly, such orders were being set aside. All this is relevant, in the context of observations made by the learned Civil Judge that the sole purpose for filing of additional written statement or application seeking leave to amend the written statement was to protract the hearing in the suit.

5] In view of the aforesaid, this petition is dismissed with costs assessed at Re.15,000/- (Rs. Fifteen Thousand only). The petitioner to deposit such costs in the Trial Court within a period of six weeks from today. The Civil Court, to ensure that such costs are paid by the petitioner, before permitting the petitioner to take further part in the proceedings in the suit. In case, such costs are not deposited by the petitioner, the Trial Court, to consider, making appropriate orders, including by way of closure of evidence, notwithstanding the order made by this Court in Writ Petition No. 8935 of 2014.

6] Liberty is granted to the petitioner to pay costs directly to respondent Nos.1 to 5 and thereafter submit proof of payment to the learned Civil Judge.

7] Accordingly, petition is dismissed with costs as aforesaid.

8] Considering that suit is of the year 2007, the Civil Court is directed to dispose of the same as expeditiously as possible and in any case within a period of one year from today.

(M. S. SONAK, J.)