

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.312 OF 1998

Shri N. N. Shinde.] ... Petitioner

Versus

Shri Sitaram Vithal Sawant.] ... Respondent

None present.

CORAM :- M. S. SONAK, J.

DATE :- JUNE 15, 2015

P. C. :-

1. This matter was called out on 08/06/2015. As neither the Petitioner nor his Advocate was present, the matter was posted today for dismissal/disposal.

2. This petition is directed against the order dated 02/08/1997, by which the Petitioner was declined leave to amend the Written Statement. The application for amendment of Written Statement was made at such a stage when the matter had reached final hearing and in fact the matter was part-heard. There was really no justification stated in the application explaining the unprecedented delay. Accordingly, there is nothing to fault the exercise of discretion in declining leave to amend.

3. Apart from delay, the Small Causes Court had also recorded that the amendment, if permitted at this stage, would alter the nature of defence and further, the amendment is not necessary to determine or adjudicate the real controversy between the parties.

4. As noted earlier, when the matter was called out on 08/06/2015, neither the Petitioner nor his Advocate were present. By way of a liberty, the matter was placed today for dismissal/disposal. Even today, neither the Petitioner nor his Advocate is present.

5. There is no merit in the petition. The same is accordingly dismissed. Interim order stands vacated. Considering that the proceedings for eviction were instituted in the year 1982, the Small Causes Court is directed to dispose of the same as expeditiously as possible and in any case, within a period of four months from today considering that the matter was posted for final hearing and was even partly argued.

6. The Registry to communicate this order to the Small Causes Court at Mumbai taking up RAE & R Suit No.732/2782 of 1982 within a period of two weeks from today.

(M. S. SONAK, J.)