

IN THE HIGH COURT OF JUDICATURE AT MUMBAI
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.4541 OF 2015

Rekha Uday Khade ... Petitioner
Vs.
Shobha Laxman Alavekar and others ... Respondents

Mr. Prashant P. Jadhav for Petitioner.

CORAM : R. G. KETKAR, J.
DATE : JANUARY 08, 2016

P.C. :

Heard Mr. Jadhav, learned Counsel for petitioner at length.

2. By this Petition under Article 227 of the Constitution of India, original defendant No.1 has challenged the judgment and order dated 17.02.2015 passed by the learned Ad-hoc District Judge-5, Kolhapur below exhibit-17 in Regular Civil Appeal No.490 of 2012. By that order, the learned District Judge rejected the application filed by the petitioner-original defendant No.1 under Order VI, Rule 17 of the Code of Civil Procedure, 1908 for amending the written statement in Regular Civil Suit No.174 of 2011.

3. Mr. Jadhav submitted that during the pendency of this Petition, main appeal itself is disposed of on 07.09.2015, and therefore, this Petition is rendered infructuous.

4. As the main Appeal itself is disposed of, this Petition is rendered infructuous. Hence, the same is disposed of as infructuous. However, it is made clear that where a decree is challenged by the petitioner, any error, defect or irregularity in the impugned order, affecting the decision

of the case, may be set forth as a ground of objection in the proposed proceedings as contemplated by Section 105(1) C.P.C.

(R. G. KETKAR, J.)

Minal Parab