

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 285 OF 2016**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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Mr. Umesh H. Pawar, Advocate for Petitioner.

CORAM: R.G.KETKAR, J.
DATE : 15/01/2016

PC:

1. Heard Mr. Umesh Pawar, learned counsel for the petitioner at length.

2. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged order dated 23.10.2015 passed by the learned Civil Judge, Jr. Dn. Islampur below Exh. 33 in R.C.S. No. 484 of 2011. By that order, the learned trial Judge rejected the application made by the petitioner, hereinafter referred to as plaintiff, under Order VI, Rule 17 of C.P.C. for amending the plaint.

3. While rejecting the application, the learned trial Judge observed that the matter is for dismissal and at that stage

the plaintiff has made application for amending the plaint. There is no explanation as to why at earlier point of time the application for amendment was not made. Apart from that, the learned trial Judge further observed that the proposed amendment is totally vague and it appears that the plaintiff is not interested in proceeding with the suit and is rather interested in delaying the suit. The learned trial Judge, therefore dismissed the application by imposing costs of RS.500/-.

4. After hearing the learned counsel for the petitioner and after perusing the material on record and in particular the impugned order, I do not find that any case is made out for invocation of powers under Article 227 of the Constitution of India. Petition fails and the same is dismissed. It is, however, expressly made clear that where a decree is appealed from 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 memorandum of appeal as contemplated by Section 105(1) of C.P.C.

(R.G.KETKAR, J.)