

Sequeira

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

WRIT PETITION NO. 3257 OF 2016

Kishor Baburao Sutar (Lohar)

.. Petitioner

Vs.

Piraji Bapurao Patil
(Tekade) & ors.

.. Respondents

Mr.Mulchand Chetiwal i/b Mr.S.M.Kamble, for the Petitioner.
Mr.Sandeep Koregave, for Respondent Nos.1 to 3.

***CORAM : N.M.Jamdar, J.
Wednesday, 24 August 2016.***

P.C. :

Not on board. Taken on production board by way of
praecipe.

2. The Petitioner challenges the order dated 19 January 2016 passed by the learned District Judge, Kolhapur rejecting the application for amendment of the plaint. The amendment is moved when the Appeal is fixed for hearing.

3. The suit was instituted on 25 June 2008. It was decided on 13 March 2012. Thereafter the Appeal was filed in the year 2012. The Application for amendment of description of the suit property is moved in first appeal in the year 2016 when it is listed for hearing.

Even assuming liberal approach is to be taken in granting amendment, the party must atleast explain the reason why the amendment could not be carried out with due diligence earlier. It is impossible to accept that the Petitioner will not know that the description of the property is not correct, something which Petitioner would have known when he filed the suit. No attempt is made during the trial. Even after the Appeal is filed when it reached the stage of hearing such amendment is sought. The learned District Judge was fully justified in not granting such belated application for amendment. Writ Petition is accordingly rejected.

(N.M.Jamdar, J.)