

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4655 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.V.S.Pandey for the petitioner
Mr.R.D.Vora for the respondent no.1
Mr.Sureshchandra Mittal for the respondent no.2

CORAM : K. K. TATED, J.
DATE : APRIL 25, 2016

P.C.:

- 1 Heard the learned counsel for the parties.
- 2 Advocate Mr.R.D.Vora submits that he received instruction to appear on behalf of respondent no.1. He undertakes to file his Vakalatnama in the Registry. Same is accepted.
- 3 By this petition, under Article 227 of the Constitution of India, petitioner original defendant no.2 is challenging the order dated 10.3.2016 passed by Small Causes Court below Exhibit-57 in R.A.E.Suit No.1735 of 2007 rejecting defendant nos.2's application for carrying out amendment in written statement.
- 4 The learned counsel for the defendant no.2 submits that the Trial Court has not considered the

merits of the matter. He submits that Trial Court has rejected their application only on the ground that same was made after more than 8 years. He further submits that if the present Writ Petition is not allowed and defendant no.2 is not permitted to carry out amendment in written statement, irreparable loss will be caused to the defendant no.2.

5 It is to be noted that in the present proceeding, respondent no.1 plaintiff filed R.A.E.Suit in 2007. Thereafter, defendant no.2 filed written statement on 3.11.2008. Plaintiff filed his affidavit of evidence in the year 2010 and after 8 years defendant no.2 filed application under Order 6 Rule 17 of the Code of Civil Procedure, 1908 for carrying out amendment in written statement. Trial Court after considering the Apex Court judgments, rejected defendant nos.2's application below Exhibit-57.

6 I also do not find any reason to entertain the present Writ Petition because the application for carrying out amendment was filed by the defendant no.2 after 8 years and that also when the plaintiff already filed his affidavit of evidence. Hence, Writ Petition stands rejected.

JUDGE