

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

**WRIT PETITION NO. 6979 OF 2016
WITH
WRIT PETITION NO. 6980 OF 2016**

Shekhar N. Shetty

..Petitioner.

Vs

Madhavlal Narayanlal Pittie and
Anr.

.. Respondents

Mr. G.S.Godbole, Senior Advocate i/b Kavita A. Shah, Advocate for
Petitioner.

Mr. B.N.Shukla i/b M/s B.N.Shukla & Co., Advocates for
respondents in both Petitions.

**CORAM : R.G.KETKAR,J.
DATE : 28/06/2016**

PC:

1. Heard Mr. G.S.Godbole, learned senior counsel for the
petitioner and Mr. B.N.Shukla, learned counsel for the
respondents in both petitions at length.

2. By these Petitions under Article 227 of the Constitution of
India, the petitioner, hereinafter referred to as 'defendant no.2'
has challenged the Judgments and orders dated 27.4.2016
passed by the Appellate Bench of the Small Causes Court at
Bombay below Exhibit 31 in A-1 Appeal No. 25 of 2011 and below
Exhibit 30 in A-1 Appeal No. 24 of 2011. By these orders, the

Appellate Court partly allowed the applications made by respondent no.1, hereinafter referred to as 'plaintiff', under Order VI, Rule 17 of C.P.C for amending the plaint. The plaintiff is permitted to sign and verify the plaint as per prayer clause (1) of the applications for amendment. The plaintiff is also permitted to carry out amendment in the plaint as per paragraph 20(a), 20(b) and prayer clause (g) as mentioned in the application subject to payment of costs of Rs.1000/- each to defendant no.1.

3. Mr. Godbole fairly stated that the petitioner is not pressing these petitions and liberty may be reserved to defendant no.2 to file Written Statement to the amended plaint as also may be permitted to amend Appeal Memo. Apart from that, liberty may be reserved in terms of Section 105(1) of C.P.C.

4. Mr. Shukla, on the other hand, submitted that the plaintiff does not intend to challenge the impugned order partly rejecting the amendment in terms of paragraphs 1(a) to 1(d).

5. In view thereof, as the impugned orders are inter-locutory, Petitions are disposed of as not pressed with liberty to defendant no.2 to file Written Statement to the amended plaint within four weeks from today and copy thereof shall be served on the other side during this period.

6. Liberty is reserved to defendant no.2 to amend Appeal Memo and serve amended Appeal on the other side. 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.)