

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

WRIT PETITION NO.10993 OF 2015

Sou. Mangla Pravin Dhale

.. Petitioner

Versus

Bhagwan Kallappa Avate

.. Respondent

Mr. I. M. Khairdi, for the Petitioner.

CORAM : R.M. SAVANT, J.

DATE : 23rd FEBRUARY 2016

PC.

1. The writ jurisdiction of this Court is invoked against the order dated 10.06.2015 passed by the Joint Civil Judge, Junior Division, Barshi, by which order, the application for amendment of the plaint so as to incorporate facts relating to the second notice dated 05.03.2007 as also for claiming arrears of rent came to be rejected.

2. The said application was moved at the stage where the evidence of the Plaintiff had started, in fact the application was moved five years after the affidavit of evidence was filed by the Plaintiff. The Trial Court was of the view that the facts relating to the notice dated 05.03.2007 involves a separate cause of action and since the filing of the said notice was not referred by the Plaintiff in the suit as originally filed,

the Plaintiff has waived his right under the said notice which in turn has created a right in favour of the Defendant. In my view, having regard to the well settled principles applicable to the amendment of the plaint especially after the trial has begun, no case for interference in the writ jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M. SAVANT, J]