

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.

936 WRIT PETITION NO. 2422 OF 2017

PRASHANT AMBADAS DODKE AND OTHERS
VERSUS
PRABHAKAR KHANDERAO BHOSLE AND OTHERS

...
Advocate for Petitioners : Mr. H.V. Patil

...
CORAM : S. B. SHUKRE, J.
Date: February 28, 2017

...
PER COURT :-

1 Heard.

2 In the order dated 14.11.2016, rejecting the Amendment Application reasoning given is that, the proposed amendment would not change the nature of the suit, rather, would be necessary to decide real controversy between the parties. According to the learned counsel for the petitioner, there are no pleadings taken in the written statement as regards ailment of Ambadas and now new pleadings are being added.

3 It may be so, but the amendment has been sought in a suit to which the amended provision of Order 6 Rule 17 incorporating 'due diligence test' is not applicable. Therefore, such an application would have to be considered in the light of settled law, which lays down that, such an application must be viewed liberally and to be allowed as long as it is necessary for determination of real controversy between the parties and does not change the nature of the suit. The nature of the amendment, as I see, would not result in change of the nature of the suit. Therefore, I am of the view that there is no illegality or perversity committed by the learned Civil Judge.

4 The petition is dismissed summarily. No costs.

(S. B. SHUKRE, J.)