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

WRIT PETITION NO.3956 OF 2016

Sangramnath s/o Bharatram Delmade,
Age: Major, Occu: Agri.,
R/o At post Kurunda, Taluka Vasmata,
Dist. Hingoli ..PETITIONER

VERSUS

1. Shantabai Bhimrao Erandkar,
Age: 45 years, Occu: Labour,
R/o Purna Sahakari karkhana
Campus, Babhulgaon,
Taluka Vasmata, Dist. Hingoli
2. The Executive Engineer,
Maharashtra State Engineer
Distribution Company,
Hingoli Division,
Hingoli ..RESPONDENTS

Mr S. S. Gangakhedkar, Advocate for petitioner;
Mr S. P. Katneshwarkar, Advocate for respondent
No.1

CORAM : NITIN W. SAMBRE, J.

DATE : 8th NOVEMBER, 2017

ORAL ORDER :

The prayer for amendment to the written statement at Exhibit-67 is moved by the defendant under the provisions of Order 6 Rule 17 of the Code

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of Civil Procedure, which came to be rejected, so also application at Exhibit-72 whereby the petitioner – defendant sought production of documents.

2. So far as the prayer made in both the applications are concerned, the petitioner submits that having regard to the advance stage at which suit has travelled, he shall not seek any prayer to adduce evidence but he be permitted to read amendment to the written statement alongwith documents which he intend to produce vide Exhibit-72 during the course of final hearing of the suit.

3. Since the prayer appears to be reasonable though opposed by learned Counsel for the respondent – plaintiff.

4. Having regard to the nature of documents, which the petitioner intend to produce vide prayer in application Exhibit-72 and the fact that the petitioner has made a categorical statement that he

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shall not adduce evidence in support of the said documents and amended pleadings in the written statement, if so permitted, in my opinion, no substantial prejudice will be caused to the respondent – plaintiff and proceedings in the suit will not be, in any way, adversely affected.

5. In view thereof, in the interest of justice and having regard to the undertaking given by the petitioner that he shall not adduce any evidence and shall not seek any adjournment qua final hearing of the suit, both the orders which are passed below Exhibits-67 and 72 are hereby set aside. The applications at Exhibits-67 and 72 stand allowed, subject to payment of costs of Rs.2000/- (Rs. Two thousand only) to be deposited within two weeks before the trial Court, to which the plaintiff shall be entitled to withdraw.

6. The trial Court shall proceed ahead with the hearing of the suit keeping in mind that the defendant will not be permitted to be adduced

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evidence in support of amended pleadings and documents which are produced.

7. The writ petition stands allowed in above terms.

(NITIN W. SAMBRE, J.)

Tupe