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

**WRIT PETITION NO.5478/2017**

Suryakant Mahadu Garude & others.  
...Petitioners..

**Versus**

Babanrao Dasa Garude & others.  
...Respondents...

.....  
Shri Amit A. Mukhedkar, Advocate for petitioners.

.....

**CORAM: M.S. SANKLECHA, J.**

**DATE: 27.04.2017**

**ORDER :**

1] This petition challenges the order dated 16.3.2017 passed by the learned Civil Judge, Senior Division, allowing the application of respondent no.1 herein to amend the written statement under the provisions of Order VI Rule 17 of the Code of Civil Procedure, 1908.

2] The petitioners amended their plaint after the respondent no.1 had filed his written statement. Consequent to the amendment made by the petitioners to the plaint, the respondent no.1 filed an application to amend his written statement. The amendment was allowed on payment of cost of Rs.1,000/-. This, after recording the fact that the trial of the suit has not commenced and that the proposed amendment does not change the nature of the suit. The impugned order also records the sole ground urged before him to reject the application for amendment was that the amendment ought to have been made

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by the respondent no.1 immediately after the amendment of the plaint by the plaintiffs.

3] Mr.Mukhedkar, learned counsel appearing for the petitioners, urges that the amendment ought not to have been allowed as it changes the nature of the defence.

4] I find that the impugned order is a speaking order. It considers the fact that the trial of the suit has not commenced and the occasion to amend the written statement was only because the plaintiffs had amended the plaint. The view taken in the impugned order allowing the amendment is a possible view and it cannot be said to be perverse so as to warrant interference with the same under Article 227 of the Constitution of India.

5] Accordingly, the writ petition is dismissed. No order as to costs.

**(M.S. SANKLECHA, J.)**