

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

WRIT PETITION NO. 11334 OF 2016

Rajendra Govindram Mandhwani ...Petitioner

VERSUS

Sow. Aarti Sanjiv Hujurbajar ...Respondent

.....
Shri V.B.Patil, advocate for petitioner
Shri S.V.Dixit, advocate for respondent
.....

CORAM : S.V.GANGAPURWALA, J.

DATED : 16th January, 2017

O R D E R :-

Mr. Patil, learned counsel for the petitioner submits that the respondent/plaintiff has filed suit for possession on the ground that the petitioner is a tenant and she requires the suit premises for her personal bona fide need. The learned counsel submits that amendment application is filed thereby raising contrary pleas relying upon the agreement entered between Acharya Vaidyakiy Pratisthan and the present

petitioner. The same is totally contrary to the original pleadings. Such an amendment could not have been allowed. The Trial Court has failed to consider this aspect of the matter.

2. Mr.Dixit, learned counsel for the respondent supports the order and submits that the said amendment has been carried out long back.

3. The suit is for eviction of the present petitioner. The grounds are agitated. By way of amendment, additional pleas are raised. The said amendment cannot be said to be totally alien to the original pleadings. In para 1 itself it was stated that the petitioner was given the suit property through the Pratisthan. Now by way of amendment, agreement entered into between Pratisthan and the petitioner is sought to be pleaded. Even otherwise, the petitioner, who is original defendant has every right to agitate in respect of the said fact by filing written statement. The merits of the contents of the

amendment application are not required to be considered at the time of entertaining the amendment application.

4. Considering the above, the discretion has been exercised by the Trial Court in the plausible manner. In view of that, the Writ Petition is dismissed. No costs.

(S.V.GANGAPURWALA, J.)

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