

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 694 OF 2015

Baliram Sakharam Dhulshete

.. **Petitioner**

Versus

Shivaji Ramrao Shewale and another

.. **Respondents**

Shri Rajiv B. Deshmukh, Advocate for the Petitioner.

Shri Satish S. Deshmukh (Patnurkar), Advocate for Respondent No. 1.

Respondent No. 2 served.

CORAM : S. V. GANGAPURWALA, J.

DATE : 14th December, 2017

PER COURT :

1. Mr. Deshumkh, learned advocate for the petitioner submits that even the trial court while deciding the amendment application has come to the conclusion that the nature of the suit would change, still has allowed the amendment application. The plaintiff is not a party to the agreement in question. In fact the plaintiff has no locus standi to file the suit. *Inter alia* does not have any locus standi to challenge the correction deed. The plaintiff has also nowhere stated in the amendment application about his alleged rights being infringed.

2. The learned advocate for the respondent supports the order.

3. It is not disputed that the prayer made by the plaintiff in the amendment application to cancel the agreement is of the agreement executed during pendency of the suit.

4. It is trite that the merits of the amendment application are not required to be considered while entertaining the amendment application. The defendants will have every right to controvert the averments sought to be introduced by way of an amendment and shall have every right to raise all defense available to him.

5. Considering the fact that the plaintiff has challenged the correction deed in the agreement executed during pendency of the suit the court below has exercised discretion in a reasonable manner.

6. In view of that, I am not inclined to exercise my jurisdiction under Article 227 of the Constitution of India. The writ petition is accordingly disposed of. No costs.

[S. V. GANGAPURWALA, J.]