

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

**924 WRIT PETITION NO. 13528 OF 2017**

BANDERAO BABURAO WABALE  
*VERSUS*  
SMT. INDUBAI SAKHARAM DARAWADE AND OTHERS

...

Advocate for Petitioners : Mr. H. D. Deshmukh.

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CORAM : **V. K. JADHAV, J.**  
DATE : 21<sup>st</sup> November, 2017.

**ORDER:**

. Aggrieved by the order passed below Exhibit 158, the original Defendant No.5 has filed the present writ petition. The Respondent / Plaintiff has filed the application Exhibit 158 under Order VI Rule 17 of the Code of Civil Procedure for carrying out the amendment in the plaint. The Respondent / Plaintiff has instituted the suit for declaration and perpetual injunction. It has been stated in the application Exhibit 158 that the Plaintiff has taken *Toor* crop in the suit land. However, on 23<sup>rd</sup> March, 2017, the Petitioner / original Defendant No.5 through some persons, has taken away the said crop forcibly in absence of the Plaintiff and further forcibly took over the possession of the suit land on that day. Though the suit is part heard and the evidence of the Defendant has been commenced and even though the Petitioner / original Defendant No.5 has denied the

allegations made in the application Exhibit 158, if the averments have been made in application Exhibit 158 to the effect that during the pendency of the suit and after examination of the Plaintiff was over, she was forcibly dispossessed from the suit land, by way of filing application Exhibit 158, the Plaintiff can very well seek amendment in the plaint by incorporating the prayer for recovery of possession. I find no fault in the impugned order. The writ petition is devoid of any merit. The writ petition is hereby dismissed. No costs.

**[ V. K. JADHAV, J. ]**

*ndm*