

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

WRIT PETITION NO.2417 OF 2017

Prashant s/o Ambadas Dodke & ors. ... PETITIONERS

VERSUS

Shivaji s/o Khanderao Bhosale ... RESPONDENT

.....
Shri H.V. Patil, Advocate for petitioner
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CORAM: S. B. SHUKRE, J.

DATED: 27th February, 2017.

ORAL ORDER :

1. Heard Mr. Patil, learned counsel for the petitioner. This petition seeks to challenge the legality and correctness of the order dated 5/11/2016, by which an amendment application, moved about 21 years after filing of the suit, has been allowed.

2. Since the suit is of the year 1995, admittedly, due diligence clause will not come in the way of the plaintiff to seek

amendment, if otherwise it is justified. On going through the amendment sought, as seen from the application at Page 44, I find that the learned Civil Judge has rightly held that as the plaintiff is only seeking to expand the original plea of the legal necessity by mentioning certain acts and improvements, the nature of the suit would not change, rather such amendment would help the Civil Court in determining the real controversy involved in the suit in an appropriate manner. I do not see that the view taken by the learned Civil Judge is perverse.

3. The plea regarding ailment of Ambadas similarly cannot be said to be something not necessary. The learned Civil Judge has rightly allowed the application. There is no perversity in the impugned order. The writ petition stands summarily dismissed with costs.

(S. B. SHUKRE)
JUDGE