

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 9965 OF 2017

Mohammad Shafi Abdul Karim Khairadi .. Petitioner

v/s.

Fazlul Rahiman Mohammad Shamshoddin
Pagadiwale .. Respondent

Mr. S.P. Rajepandhare for the petitioner
Ms. Shruti Tulpule for the respondent

CORAM : M.S. SANKLECHA, J.

DATED : 11th SEPTEMBER, 2017

P.C.

1. This petition is moved for urgent reliefs.
2. This petition challenges the order dated 3rd July, 2017 passed by the Ad-hoc District Judge, Solapur. By the impugned order, the petitioner's application to amend its written statement in an appeal being Appeal No.356 of 2012, arising out of the order of the trial Court dated 1st October, 2009 was rejected. The impugned order invokes Order 6 Rule 17 of the Civil Procedure Code (Code) and records the fact that before an amendment applicant can be allowed, the parties seeking to make such amendment in its pleading should

satisfy the Court that inspite of due diligence it could not have been raised before commencement of the trial. The impugned order records that the petitioner has not been able to explain due diligence on his part nor has the learned Counsel showed anything on record which would indicate that despite of due diligence on the part of the petitioner, the application for amendment could not have been made earlier. It is pertinent to note that the suit is of the year 2005. The order of the trial Court is dated 1st October, 2009. The appeal, it appears to have been filed in 2012 and the application for amendment was moved on 7th April, 2017. The aforesaid exercise of discretion by the impugned order does not call for any interference in my supervisory jurisdiction under Article 227 of the Constitution of India.

3. Accordingly, the petition is dismissed. No order as to costs.

(M.S. SANKLECHA, J.)