

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

WRIT PETITION NO.1103 OF 2017

Deoram Vishnu Talele

.... Petitioner

versus

Zaverben Liladhar Haria

... Respondent

.....

- Ms.Neesha Mailagir i/b. Anil D. Joshi, Advocate for the Petitioner.
- Mr.J.P. Daiya i/b. G.H. Keluskar, Advocate for the Respondent Nos.1 to 3.

CORAM : R.M.SAVANT, J.

DATE : 20th APRIL, 2017.

P.C. :

1. The writ jurisdiction of this Court is invoked against the order dated 12/08/2016 passed by the learned Judge of the Small Causes Court, Mumbai, by which order, the application Ex.44 for amendment of the written statement filed by the Petitioner, original Defendant came to be rejected. The Respondent herein, is the original plaintiff in the Eviction Suit bearing RAE No.1063/07, which is pending in the Small Causes Court, Mumbai.

2. The suit is founded on the ground of the bonafide

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requirement of the Plaintiff. The suit was filed on 26/02/2007. The Petitioner herein filed his written statement on 09/08/2007. Thereafter issues were framed on 08/01/2013. On behalf of the Plaintiff an affidavit of service came to be filed on 25/07/2013. The Trial Court passed an order as regards to the admissibility of the documents on 23/09/2013. The affidavit of evidence of the second witness of the Plaintiff was filed on 05/11/2014 and it is thereafter that the instant application came to be filed by the Petitioner, i.e. the Original Defendant, on 25/11/2014 for amendment of the written statement. The Trial Court has rejected the said application on the ground that the matter being part heard and the defendant having not shown sufficient ground as to why the application could not be filed earlier and what prevented the Defendant from bringing on record the facts and circumstances, which are now sought to be brought on record, rejected the said application.

3. The learned counsel for the Petitioner would contend that the facts which are sought to be brought on record are relevant for the purposes of the defence of the Defendant. However, upon hearing the learned counsel for the Petitioner it is revealed that the facts which are sought to be brought on record, are the facts which the

learned counsel can very well put to the Plaintiff in the cross examination. Since the parameters for allowing the application for amendment of the pleadings after the trial has begun were not satisfied by the Petitioner, the Trial Court has rejected the said application Ex.44. In my view, no case for interference in the writ jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

(R.M.SAVANT, J.)