

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

WRIT PETITION NO. 4162 OF 2017

NAVAPUR EDUCATION SOCIETY THROUGH VIPINBHAI
MAGALDAS CHOKHAWALA AND OTHERS

VERSUS

VIJAY ALIAS VIVEK RAMDAS PATHAK

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Advocate for Petitioners : Mr. Wani Ruchir S.

Advocate for Respondents : Mr Rupesh Bora h/f G D
Jain

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CORAM : V.K. JADHAV, J.

Dated: February 06, 2018

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PER COURT :-

1. Heard.
2. Petitioner no.1 Trust and trustees have instituted the R.C.S. No.56/2012 for eviction of the respondent/original defendant from the suit premises under the provisions of Maharashtra Rent Control Act, 1999. During the pendency of the suit, the petitioner/trust has filed an application exh.34 stating therein that inadvertently, name of the defendant is mentioned as 'Vijay Ramdas Pathak' instead of 'Vivek Ramdas Pathak'. It has also stated in the said

application that consequently, same mistake repeated in the affidavit of evidence filed by the petitioner/plaintiff. Learned judge of the trial court by order dated 16.1.2017 has rejected the said application.

3. It appears that amendment as sought is extremely formal in nature. Learned judge of the trial court should have considered the application in its proper perspective, however, rejected the application on technical ground. Hence, following order.

O R D E R

1. Writ petition is hereby allowed. No costs.
2. The Impugned order dated 16.1.2017 passed by the Civil Judge, Junior Division, Navapur in R.C.S. No.56/2012 below Exh.34 is hereby quashed and set aside.
3. Application exh.34 is allowed in terms of its prayer clauses.
4. Writ Petition accordingly disposed of.

(V.K. JADHAV, J.)

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