

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

**WRIT PETITION NO. 10728 OF 2018**

**DILIP ABRAO KASHIKAR AND OTHERS  
VERSUS  
SANJAY MATHURDAS RATHI AND ANOTHER**

...  
Advocate for the Petitioners : Shri S. R. Choukidar

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**CORAM : RAVINDRA V. GHUGE, J.**

**DATED : 19<sup>th</sup> OCTOBER, 2018.**

...

***PER COURT :***

1. The petitioner is aggrieved by the order dated 19/04/2018 passed by the Appellate Court at Aurangabad, by which, his application Exhibit 11, seeking an amendment to the written statement in RCA No. 164/2012, has been rejected.

2. The Appellate Court has concluded that the proposed amendment is not necessary for deciding the real controversy between the litigating sides. The Appellate Court has ignored the defect that the said application seeking an amendment was not supported by any verification.

3. The learned Advocate for the petitioner has pointed out

the highlighted portion on pages 5 and 6 of the memo of the petition, as the proposed amendment.

4. I find that the compromise decree dated 02/11/1996 was delivered by the learned 6<sup>th</sup> Jt. Civil Judge, Senior Division, Aurangabad in SCS No. 105/1995. The proposed amendment was an attempt to highlight the conclusions arrived at and the narration in the compromise decree.

5. Though the amendment may not be impermissible even before the Appellate Court, it needs to be seen as to whether the proposed amendment is in the form of oral submissions or highlighting the contents of a decree which has been drawn earlier by the consent of the parties. It is informed that the said decree in SCS No. 105/1995 is already placed on record.

6. Considering the supervisory jurisdiction of this Court and the observations of the Appellate Court in the impugned order coupled with the proposed amendment, I do not find that the impugned order could be branded as being perverse or erroneous. The proposed amendment is actually in the form of

oral submissions.

7. The litigating sides are at liberty to put forth their oral submissions in view of the pleadings and in the light of the documents and R & P before the Appellate Court. Hence, this Writ Petition, being devoid of merit is dismissed.

**(RAVINDRA V. GHUGE, J.)**

shp/-