

vks

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

WRIT PETITION NO.3338 OF 2016

Narayan Rawool

... Petitioner

V/s.

Reshma Govind Rawool
Through P.O.A., Kamini Rawool
and ors

... Respondents

Mr. Vinaay Kumar Omprakash Dubey, for the Petitioner.
Mr. Vikas Warekar i/by Warekar and Warekar, for the
Respondent No.4

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 22nd MARCH, 2018.

P.C. :

1] Heard learned counsel for the petitioner and learned
counsel for respondent No.4.

2] By this petition filed under Article 227 of the Constitution
of India, the petitioner is challenging the order dated 19.10.2015,
passed by Civil Judge Junior Division, Vengurla, below application at
Exh.119 in R.C.S. NO.70 of 2006.

3] Application at Exh. 119 was filed by the present petitioner,
who is one of the legal heirs of deceased defendant before the trial

Court, for review of the order passed below Exh.106.

4] Application at Exh.106 was filed by respondents for amendment in the plaint. The said application was allowed by the trial Court, vide its order dated 15.2.2012, directing the respondents to pay costs of Rs.3,000/- to the present petitioner before next date. The grievance raised by the petitioner is that respondents had not paid these costs of Rs.3,000/- before the next date which was 1st March, 2013 and despite that the trial Court has allowed the amendment to be carried out. Hence the petitioner had filed Application for review of the said order, which the trial Court has rejected by the impugned order.

5] It is brought on record that the respondent has paid costs of Rs.3,000/-, immediately on 15.3.2013 which was the next date after 1st March,2013. It was specifically stated therein that the costs remained to be paid due to inadvertence. The trial Court has allowed the said application, in the interest of justice.

6] Thus, once the trial Court has exercised its discretion and allowed the costs to be deposited even after the stipulated period, therefore, there is no substance raised in the grievance against the said order. The trial Court has exercised its discretion properly. It is also not the case that the order dated 15.02.2012, allowing application for amendment was subject to payment of cost, as a

condition precedent. In such situation, no interference is warranted in the impugned order passed by the trial Court, rejecting petitioner's application for review.

7] The writ petition, therefore, being without merit, stands dismissed.

[DR.SHALINI PHANSALKAR-JOSHI, J.]