

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6754 OF 2018

Ashatai Sunil Ghail

.. Petitioner

Versus

Malan Anandrao Mane and Ors.

.. Respondents

Mr. Mahindra Deshmukh for the Petitioner.

CORAM : K.K. TATED, J.

DATE : 28 NOVEMBER 2018.

P.C:-

. Heard learned Counsel Mr. Mahindra Deshmukh for the Petitioner.

2. By this Petition under Article 227 of the Constitution of India, Petitioner is challenging the order dated 21.02.2018 passed by Civil Judge Junior Division, Kadegaon below Exhibit-70 in Regular Civil Suit No. 142 of 2014 rejecting Petitioner's application to carry out amendment in the plaint.

3. The learned Counsel for the Petitioner submits that they filed application for carrying out amendment under Order VI Rule 17 of the Code of Civil Procedure, 1908 on the basis of written statement filed by the Respondent defendant in the year 2015. He submits that there was delay on their part to file appropriate application. The trial Court ought to have allowed the same. Hence, order passed by trial Court dated 21.02.2018 is required to be set aside, allowing the Petitioner's

application below Exhibit-17 for carrying out amendment in the plaint.

4. It is to be noted that though the Respondent original defendant filed their written statement in the year 2015, petitioner on the basis of the said written statement filed application for amendment in the year 2017. Not only that, plaintiff wanted to carry out amendment in the plaint to discard the Respondent's stand in written statement and that cannot be allowed. Those facts are considered by the Trial Court and rightly rejected the Petitioner's application.

5. Hence, no substance in the present petition. Same stands rejected.

6. No order as to costs.

(K.K. TATED, J.)