

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

WRIT PETITION NO.12608 OF 2017

The Maharashtra State Co-operative
Tribal Development Corporation Ltd. .. Petitioner
Vs.
Shivaji Rambhau Wanjari .. Respondent

Mr.Vaibhav V. Ugle for the petitioner.
Ms.Maya P. Majumdar for the respondent.

CORAM : A.K. MENON, J.

DATED : 23RD APRIL, 2018.

P.C. :

1. This petition can be disposed of finally at the stage of admission.
Hence issue Rule, Rule made returnable forthwith. By consent of the parties taken up for final hearing. By this petition, the petitioner – corporation challenges the impugned order passed on Exhibit-C-7 and Exhibit-C-11 by which the Labour Court, Nashik rejected an application seeking amendment of the written statement filed by the present petitioner on 16th June, 2014.
2. Learned counsel for the petitioner has taken through the amendment application and proposed amendment in paragraph 10 at Page 3 of the written statement. Amendment is opposed on behalf of the

respondent, who has filed the affidavit in reply dated 4th April, 2018 on the basis that if the amendment is allowed it would change the entire defence.

3. Having heard learned counsel for the parties, I find that the amendment now proposed is in the nature of alternative plea. Learned counsel for the respondent has pointed out that certain documents have been suppressed including a communication dated 1st January, 2004, a copy issued by the petitioner – corporation which is annexed at Exhibit-A to the affidavit in reply. The impugned order records that the application was made at the stage after an affidavit in lieu of evidence has been filed and before commencement of the cross examination.
4. I am of the view that there is no prejudice caused if the proposed amendment as set out in the second portion of paragraph 3 (bracketed portion) is permitted as an alternative plea without allowing deletion of the first portion of paragraph 3 of the written statement proposed to be deleted. This would be subject to payment of costs. The respondent will also be entitled to file an additional affidavit of evidence along with additional documents, if any, in order to meet the case of the petitioner in the proposed amendment.
5. In the facts and circumstances of the case the following order is passed
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(a) Subject to payment of the costs of Rs.10,000/- to the respondent within a period of two weeks from today, the petitioner shall be permitted to carry out amendment proposed as above in its written statement dated 16th June, 2014.

(b) If the costs are paid and amendment is carried out, the respondent shall be entitled to file an additional affidavit of evidence along with additional documents within two weeks thereafter. Cross examination shall be permitted subject to aforesaid.

(c) Petition is disposed of in the aforesaid terms.

(A.K. MENON,J.)