

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

WRIT PETITION NO. 13896 OF 2017

Gundu Laxman Bauskar (since deceased) Through LRs. & Ors. V/s. Dattatray Bhondiba More & Anr.		Petitioners Respondents
--	--------------------	------------------------------------

Mr.Abhijit V. Desai for the Petitioners.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 11th JANUARY, 2018.

P.C. :

- 1] Heard learned counsel for the Petitioners.
- 2] By this Writ Petition filed under Article 227 of the Constitution of India, the Petitioner is challenging the order dated 5th October, 2017, passed by Civil Judge Junior Division, Gargoti, below Exhibit-126 in Regular Civil Suit No. 73 of 2007. The application at Exhibit-126 was filed by Respondent No.1 herein under Order-VI Rule-17 of the Civil Procedure Code, seeking amendment in the plaint.
- 3] The only submission advanced by learned counsel for the Petitioners is that the amendment was sought at the belated stage. The

suit was filed in the year 2007 and after 10 years, the amendment is sought in the plaint and therefore, the trial Court should not have allowed the said application for amendment.

4] However, perusal of the impugned order passed by learned trial Court reveals that, as the issues were recast on 12th July, 2017, framing two issues as to whether the suit is within limitation and whether the suit is bad for want of pre-suit notice under Section 180 of the Maharashtra Village Panchayat Act? In view thereof, the Petitioners wanted to implead certain facts to show that such notice under Section 180 of the Maharashtra Village Panchayat Act was already issued. The trial Court has also considered that the said contention was raised in the written statement but then after the evidence of both the parties was closed, as the issue to that effect was framed, the trial Court has found the amendment necessary for the adjudication of the real controversy between the parties.

5] Perusal of the impugned order passed by the trial Court, therefore, does not call for any interference; especially when the proposed amendment is allowed, subject to the proportionate costs of Rs.2,000/- (Rs.Two Thousand only) to Petitioner Nos.1 to 4.

6] The Writ Petition, therefore, being without merits stands dismissed with a direction to the trial Court to decide the suit as expeditiously as possible.

[DR.SHALINI PHANSALKAR-JOSHI, J.]