

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

WRIT PETITION NO. 5066 OF 2018

Pralhad Bapurao Kadam

..PETITIONER

VERSUS

Ghanshyam Taterao Kadam

..RESPONDENT

....
Mr. S.S. Jadhavar, Advocate for petitioner
Mr. S.K. Chavan, Advocate for respondent
....

**CORAM : R.G. AVACHAT, J.
DATED : 26th AUGUST, 2019**

PER COURT :

Heard.

2. The challenge in this petition is to order dated 03rd March, 2018 passed by learned 2nd Joint Civil Judge, Junior Division, Parbhani thereby rejecting application (Exh.116) in Regular Civil Suit No. 16 of 2013, moved by present petitioner (original defendant) requesting the Trial Court to frame additional issue on the point of adoption of present respondent by deceased – Ghanshyam Kadam (original plaintiff).

3. According to learned Counsel for petitioner, issue of adoption of present respondent is the vital issue in the matter before the Trial Court. Learned Counsel for petitioner pointed out the pleadings indicating the

averments about the alleged adoption and mentioned the said fact in the written statement. According to learned Counsel for petitioner, additional issue necessary for deciding the suit can be framed at any stage of the suit.

4. In my view, learned Counsel for petitioner may be right. The facts of the case however indicate that application (Exh.116) was moved after recording of evidence. Now the suit is reserved for arguments. Trial Court has specifically observed that application appears to have been moved with an intention to prolong the matter.

5. It appears that parties to the suit went for trial knowing well each other's case. Petitioner (original defendant) is at liberty to urge his contentions in appeal, if any. Needless to mention that such point would be decided on its own merits. It is reiterated while the evidence in the case was already recorded and the matter was fixed for arguments to be advanced by respective sides, the Trial Court was justified in rejecting the application. No interference with the impugned order is therefore called for. Writ petition stands disposed of accordingly.

(R.G. AVACHAT, J.)

SSD