

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.5220 OF 2019

Dattatraya @ Dattu Baburao Kadam
and another

Petitioners

Versus

Lahanu Bajaba Shinde

Respondent

Mr.N.V.Gaware, advocate for the petitioners.

CORAM : RAVINDRA V. GHUGE, J.

DATE : 13th August, 2019

PER COURT:

1 The petitioners, original defendants in RCS No.131 of 2014, are aggrieved by the order dated 22.02.2018, passed by the trial Court, by which, the application Exhibit-49, filed by the defendants seeking amendment under Order VI Rule 17 of the Code of Civil Procedure, has been rejected.

2 The learned advocate for the petitioners – defendants has strenuously criticized the impugned order. He draws my attention to the nine grounds formulated in the memo of petition. He submits that as the defendants desired to amend the written statement, the trial Court should not have considered the application Exhibit-49 with the same strictness, as is required to be applied when a plaintiff seeks an amendment. He submits that an amendment to the written statement has to be considered liberally.

3 I have gone through the petition paper book with the assistance of the learned advocate for the petitioners and the impugned order. I find from Exhibit-49 that the petitioners desired, practically, to plead the law by introducing certain paragraphs. They have raised certain grounds as regards the law of limitation being applicable. Such pleadings have their basis in the written statement, though the proposed amendment was to highlight the law.

4 In my view, the law need not be pleaded and if the basic pleadings are available in the written statement, these petitioners can certainly rely on all such provisions of law, as are applicable. These contentions have, therefore, to be kept open, though the pleadings on propositions of law need not be set up in the written statement.

5 In view of the above, this petition is disposed off with the observations as above.

RAVINDRA V. GHUGE
JUDGE

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