

DDR

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7439 OF 2019**

Eknath Damu Rathod & anr. ..Petitioners

vs.

Pomsingh Damu Rathod & ors. ..Respondents

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Shri A.M. Kulkarni a/w. Ms. Akansha Helaskar for petitioners.

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CORAM : M.S.KARNIK, J.

DATE : 26th AUGUST, 2019

P.C. :

Heard Mr. A.M. Kulkarni for the petitioners.

2. By this Petition the petitioners are challenging the order passed by the trial Court dated 12/3/2019 rejecting the application for amendment of the written statement.

3. The petitioners are original defendant Nos. 1 and 2 filed an application for amendment of the written statement on the ground that through inadvertence some alternative pleas of defence have not been raised in the written statement.

4. In the submission of learned counsel for the petitioners, the plea which is sought to be raised by way of

amendment to written statement is only explanatory in nature. According to learned counsel, the defendant can always raise alternative pleas. It is further contention of learned counsel that in order to avoid multiplicity of proceedings it would be in the interest of justice if the amendment which is prayed for should be allowed.

5. I have gone through the order passed by the trial Court. The application for amendment of the written statement is made after the arguments are concluded. I am informed that even the trial Court has listed the matter for “pronouncement of judgment” on 5th September, 2019. There has been inordinate delay in filing the application for amendment and the same is filed at the fag end of the proceedings. I am therefore not inclined to interfere with the order passed by the trial Court. However, liberty of the petitioners to challenge the impugned order in appropriate proceedings before the higher forum is kept open in the event the suit is decided against the petitioners. With these observations the Petition is dismissed.

(M.S.KARNIK, J.)