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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3154 OF 2019

Hi-Tech Industrial Insulation
Proprietor R.D. Patil

..Petitioner.

V/s.

Raj Ratan Metals through its
Proprietor Rajesh Suresh Jain

..Respondent.

Mr.Manoj Patil for the petitioner.

None for the respondent.

CORAM: M.S.SONAK, J.

DATE : MARCH 12, 2019

P.C.:-

Not on board. Upon production, taken on production board.

2. Heard Mr.Manoj Patil, learned counsel for the petitioner.
3. Challenge in this petition is to the order dated February 11, 2019 by which learned trial Judge has rejected the petitioner's application at Exhibit-40 in Special Civil Suit No.1534/2012 for leave to amend the written statement.
4. The record indicates that this application seeking leave to amend was at the stage when the trial had advanced substantially.

In fact, the matter was placed for examination of the plaintiff. Perusal of the application seeking leave to amend indicates that there is absolutely no explanation in so far as the aspect of due diligence is concerned. One statement that the petitioner may not be made to suffer on account of the difficulty or negligence of the previous advocate, is not sufficient explanation to establish any due diligence. From the nature of the proposed amendment, it is clear that the same relates to alleged events that took place in the year 2011-12. There is absolutely no explanation as to why all these matters could not have been pleaded in the written statement in the first instance or leave to amend could not have been applied for before commencing of the trial.

5. The trial Court has properly considered the matter as well as the law on the subject. There is neither any jurisdictional error nor illegality in the impugned order.

6. The petition is, therefore, dismissed.

7. In the facts of the present case, there shall be no order as to costs.

(M.S.SONAK, J.)