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Bharat
D. Pandit

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6793 OF 2019**

M/s. Khandekar Constructions Pvt. Ltd.
And Anr.

..... Petitioners.

V/s

Mr. Ankush Mohite and Others

..... Respondents.

Mr. Rakesh Reddy for the Petitioners.

Mr. S.S. Patwardhan i/b Bhooshan Mandlik for Respondent Nos. 1 to 4.

CORAM: NITIN W. SAMBRE, J.

DATE: OCTOBER 15, 2019

P.C.:-

1] In an appeal against dismissal of the suit, an application came to be moved under Order 6 Rule 17, seeking amendment of the pleadings in the Plaint. The said application is rejected by the order impugned dated 02/02/2019.

2] The submissions are, since the evidence is already on record, which was discarded for want of pleadings, the order is not sustainable. It is claimed that the Petitioner be put to certain conditions. A support is drawn from the observations made from para

20 onward of the judgment under challenge in appeal, so as to substantiate the aforesaid contentions.

3] The learned Counsel for the Respondents opposed the claim and sought dismissal.

4] Even if in the absence of pleadings, Petitioner has adduced any evidence, principle of appreciation contemplates that such evidence is required to be ignored for want of proper pleadings.

5] If, at this stage, Petitioner's prayer for grant of amendment to the pleadings in the plaint is granted, same will be amounting to permitting the Petitioner to insert his new cause or fill-in the lacunae.

6] In view of above, no case for interference is made out. Petition fails and the same stands dismissed. Needless to clarify that evidence which is adduced, particularly from para 20 onward about the document produced, can be considered for collateral purposes.

(NITIN W. SAMBRE, J.)