

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****CIVIL APPLICATION NO. 1883 OF 2019****IN****WRIT PETITION NO. 9759 OF 2010**

Jeevan Niwas Co-operative
Housing Society

.....Applicant.

IN THE MATTER BETWEEN-

Jeevan Niwas Co-operative
Housing Society

.....Petitioner.

Vs.

The State of Maharashtra & Anr.

.....Respondents.

Mr. Raj Patel, Adv. Sayeed Y. Mulani i/by Kalpeh J. Nansi for the
Applicant/Petitioner.

Mr. R.V. Govilkar a/w Ms. Shaba N. Khan for the Respondent No.4.
Smt. V.S. Nimbalkar, AGP for the Respondent Nos. 1 and 3-State.

CORAM : A. S. GADKARI, J.

DATE : 23rd SEPTEMBER, 2019.

P.C.:-

The present Application is for amendment of the Writ
Petition.

2 Heard Mr. Patel for the Applicant/Petitioner, Mr. Govilkar
for the Respondent No.4 and the learned AGP for the State.

3 Mr. Govilkar, the learned counsel for the Respondent No. 4
vehemently opposed the Application and submitted that, after change

of Advocate and as an afterthought the present Application has been filed. He submitted that, the grounds which were not taken at the time of admission are now been urged before this Court after the matter is listed for final hearing.

4 The record reveals that, the present Petition has been admitted by this Court on 9th June, 2011 and the ad-interim relief granted by Order dated 9th December, 2010 has been confirmed as interim relief.

5 The record further indicates that, on an earlier occasion, the prayer for amendment of the Petition was granted by this Court and the Applicant/Petitioner has accordingly amended the Petition by incorporating at least 10 additional grounds. The record indicates that, the Respondent thereafter, filed an Application for fixing an early date of hearing and the said prayer was granted. The Petition was directed to be listed on final hearing Board on 17 June 2019. That, on 17th June, 2019, the learned Advocate for the Petitioner sought time and the Petition was thereafter placed for final hearing on 24th June, 2019. On 24th June, 2019, again the Petition was adjourned to 22nd July, 2019.

6 It appears that, thereafter, the Petitioner has changed his

Advocate, and the present Application for amendment has been filed on 25th July, 2019.

There is a delay of at least 9 years in filing the present Application. There is no explanation about such a colossal and inordinate delay in filing the present Application. It is the settled position of law that, change of Advocate cannot be a ground for review so also, for filing an Application for amendment of the Petition.

6 As noted above, on an earlier occasion the Petitioner was permitted to amend the Petition and the Petitioner has incorporated at least 10 new grounds in the Petition. As the present Application is hit by delay and latches, coupled with the fact that despite granting an opportunity on earlier occasion, the Petitioner was not diligent enough in incorporating all the necessary and relevant grounds, I am of the considered view that, the present Application does not deserve to be allowed.

Application is accordingly rejected.

7 List the Petition on Final Hearing Board in the week commencing from 7th October, 2019.

(A.S. GADKARI, J.)