

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

**Writ Petition NO. 5593 OF 2017**

|                                    |               |
|------------------------------------|---------------|
| Shri. Sanjeev Ramchandra Aphale    | ...Petitioner |
| <i>Versus</i>                      |               |
| Shri. Prakash Ramchandra Dhadphale | ...Respondent |

....  
Mr. Sarthak Diwan, Advocate for the Petitioner.  
....

CORAM : R. G. KETKAR, J.

DATE : 14<sup>th</sup> FEBRUARY, 2019

P.C.

1. Not on board. At the request of Mr. Diwan taken up for admission.
2. Heard Mr.Sarthak Diwan, learned counsel for the petitioner, at length.
3. By this Petition under Article 227 of the Constitution of India, the petitioner, hereinafter referred to as the 'defendant' has challenged the order dated 23.8.2016 passed by the learned 5<sup>th</sup> Additional Judge, Small Causes Court at Pune below Exhibit-31 in Civil Suit No.127/2016. By that order, the learned trial Judge allowed the application made by the respondent, hereinafter referred to as the 'plaintiff', under Order VI Rule 17 of the Code of Civil Procedure, 1908 (for short, 'C.P.C.') for amending the plaint.

4. By the proposed amendment, the plaintiff has sought correction of the description of the suit premises given in paragraph-1 of the plaint. The plaintiff proposed to add the words “or such other structures totally admeasuring about 111.48 m<sup>2</sup> or 1350.0 ft<sup>2</sup> at per actual” after the words “workshop shed”. The plaintiff also proposed to correct the southern boundary as “on or towards the south – remaining portion of the larger land”.

5. The learned trial Judge while allowing the application noted that no say was filed by the defendant. With the assistance of Mr. Diwan I have perused the proposed amendment. The amendment proposed by the plaintiff is of technical nature and will not take the defendant by surprise. In view thereof, no case is made out for interfering with the impugned order. Hence, the petition fails and the same is dismissed.

6. It is made clear that where a decree is appealed from by the petitioner, any error, defect or irregularity in any order, affecting the decision of the case, may be set forth as a ground of objection in the memorandum of appeal as contemplated by section 105(1) of C.P.C.

(R. G. KETKAR, J.)