

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 4514/2019

Pandurang G. Padlamwar

..VS..

Ajay B. Bajait

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri A.S. Dhore, Advocate for the petitioner

CORAM : Z.A.HAQ, J.
DATED : 05/07/2019

Heard.

The original defendant has challenged the order passed by the trial Court by which the application (Exh. 45) under Order 6 Rule 17 of the Code of Civil Procedure seeking permission to amend the written statement is dismissed. The learned trial Judge has recorded that the application (Exh. 45) is filed after commencement of trial and there is no explanation by the defendant on the basis of which it can be said that the proviso below Rule 17 of Order 6 of the Code of Civil Procedure will not be attracted. The learned trial Judge has further observed that the plea sought to be raised by the proposed amendment is a technical plea.

After going through the application (Exh. 45), I find that the defendant has not pointed out why the pleadings now sought to be incorporated by way of amendment are not brought on record before the trial commenced. The defendant has not been able to wriggle out of the bar created by proviso

below Rule 17 of Order 6 of the Code of Civil Procedure. It cannot be said that the learned trial Judge has committed any error of jurisdiction which necessitates interference by this Court in the extraordinary jurisdiction.

Hence, the writ petition is **dismissed**. No costs.

JUDGE

Ansari