

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

**WRIT PETITION NO. 4865/2019**

Mannu @ Mahendra K. Shambar

..VS..

Naresh S. Agrawal & ors.

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

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Ms. H. S. Dhande, Advocate (Appt.) for the petitioner  
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**CORAM : Z.A.HAQ, J.**

**DATED : 17/07/2019**

Heard.

The application (Exh. 57) filed by the petitioner – defendant no. 1 seeking permission to amend the written statement is dismissed by the impugned order. The learned trial Judge has recorded that by the proposed amendment, the petitioner is seeking to withdraw the admissions given by him in the written statement and to take a contrary stand. It is further recorded that by the proposed amendment, the petitioner is seeking to introduce the case that he is the absolute owner of the suit property but there is already an adjudication by this Court in W.P. No. 2663/1995 and by the judgment dated 05/07/2007, this Court has held that the petitioner – defendant no. 1 is the tenant of the respondent no. 1 – plaintiff no. 1.

The learned advocate for the petitioner submitted that the petitioner claims absolute ownership on the basis of agreement of sale alleged to have been executed in January,

1999. It is not explained why the factum of existence of such agreement was not pleaded by the petitioner when he filed the written statement. It is relevant to note that the judgment in W.P. No. 2663/1995 is delivered by this Court on 05/07/2007. It is not explained why the copy of the alleged agreement was not produced and relied upon in the writ petition.

Considering the above facts, I am of the view that the learned trial Judge has rightly rejected the application (Exh. 57).

The writ petition is **dismissed**. No costs.

Fees of the learned advocate appointed to represent the petitioner shall be paid as per the Rules.

**JUDGE**

*Ansari*