

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

WRIT PETITION NO. 6068/2019

Umakant T. Deotale

..VS..

Gorakshan Sabha

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. Manohar, Advocate for the petitioner

CORAM : Z.A.HAQ, J.

DATED : 05/09/2019

In the civil suit filed by the respondent praying for decree for eviction and possession, the petitioner – defendant had filed an application (Exh. 97) under Order 6 Rule 17 of the Code of Civil Procedure seeking permission to amend the written statement, which is dismissed by the impugned order. The learned trial Judge has recorded that by the proposed amendment, the defendant is seeking to bring on record certain facts which were within his knowledge since 2013 and there is no explanation for the inordinate delay in moving the application (Exh. 97). It is further recorded in the impugned order that the evidence of the plaintiff is closed and affidavit in lieu of examination-in-chief of the defendant is also filed and the matter is now fixed for cross-examination of the defendant.

The learned advocate for the petitioner – defendant has pointed out that the defendant has stated in the application (Exh. 97) that he got knowledge that the plaintiff has leased out some portion of the land to an

advertising company and another establishment Dindayal Thali recently. It is further submitted that it is necessary to bring on record the subsequent events as these facts falsify the claim of the plaintiff that the suit property is required by it for bonafide occupation.

In the impugned order, the learned trial Judge has recorded that the advertising company has installed a huge advertising board and the other establishment i.e. Dindayal Thali is also functional since January 2013, and it cannot be accepted that the defendant got knowledge about induction of these tenants recently. I find that the learned trial Judge has also rightly restrained himself in view of the bar created by proviso below Rule 17 of Order 6 of the Code of Civil Procedure, as the application (Exh. 97) was filed at belated stage and after the evidence of the plaintiff is closed. It cannot be said that the learned trial Judge has committed any patent illegality or error of jurisdiction which necessitates interference by this Court in the extraordinary jurisdiction.

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

JUDGE

Ansari