

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

WRIT PETITION NO.1208 OF 2019

(GAJANAN SHRAWAN MESHARAM...VS.. SAU. SHANTABAI SHRIRAM SURYAWANSHI.)

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

Court's or Judge's orders

 Shri S.K.Thengri, Advocate for Petitioner.

CORAM : Z.A.HAQ, J.

DATED : FEBRUARY 21, 2019.

The original defendant has challenged the order passed by the trial Court by which the application filed by the defendant seeking permission to amend the written statement is dismissed. The defendant filed the application under Order VI Rule 17 of the Code of Civil Procedure after recording of the evidence of both sides was over and the arguments on behalf of the plaintiff were also over.

The defendant has not been able to show that in spite of exercise of due diligence, he has not been able to bring on record the facts which are now sought to be brought on record by the proposed amendment. Considering the bar created by proviso below Rule 17 of Order VI of the Code of Civil Procedure, the learned trial Judge has rightly dismissed the application filed by the defendant under Order VI Rule 17 of the Code of Civil Procedure.

The proposition laid down in the judgment given in the case of *Gurbakhsh Singh Vs. Buta Singh*, reported in **2019(1) Mh.L.J. 481**, relied upon by the Advocate for the petitioner, is well settled and the party can be permitted to

amend the plaint/ written statement at any stage, however, the party has to satisfy that in spite of exercise of due diligence he/she could not seek the amendment as proposed earlier. In the present case, the defendant has not been able to do it. Hence, I see no reason to interfere with the impugned order.

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

JUDGE

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