

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 648 OF 2020

Pravin Durgaram Naik

.Petitioner

Vs.

Anusaya Baliram Naik & ors.

.Respondents

Mr. Sanskar Marathe, Advocate for the Petitioner
None for the Respondents

CORAM : REVATI MOHITE DERE, J.

DATE : 28.01.2020

P. C.

. Heard learned counsel for the Petitioner.

2. By this Petition, the Petitioner has impugned the order dated 26.03.2019 passed by the learned Jt. C. J. J. D., Kankavali, District – Sindhudurg below Exh. 146 in R. C. S. No. 1 of 2010, by which the learned Judge was pleased to reject the Petitioner's Application seeking permission to file additional Written Statement, in response to the amendment in the plaint.

3. Perused the papers including the impugned order. The Petitioner is the Original Defendant No. 5. The Respondent Nos. 1 to 5 are the Original Plaintiffs who have filed the aforesaid suit, being R. C. S. No. 1 of 2010 for partition and possession of the suit premises i. e. agricultural land and house property. The Petitioner (Original

Defendant No. 5) appeared in the said suit and filed his Written Statement. Thereafter, it appears that the Respondent Nos. 1 to 5 (Original Plaintiffs) amended the plaint on two occasions i. e. 2011 and 2017. Admittedly, the Petitioner (Original Defendant No. 5) did not file his additional Written Statement pursuant to the said amendment carried out by the Respondent Nos. 1 to 5 in 2011 and 2017. It is only on 11.02.2019 that the Petitioner filed an Application for filing additional Written Statement. A perusal of the said Application shows that it is completely bereft of any details. The said Application does not spell out any reason or ground for filing the additional Written Statement belatedly. The Application is a one para Application which only seeks permission to file additional Written Statement by stating that the Additional Written Statement was not filed inadvertently. Considering the delay that has occasioned i. e. almost seven years in filing additional Written Statement, the learned Judge has rightly rejected the said Application. However, whilst rejecting the said Application for filing additional Written Statement on the ground of delay of almost seven years, the learned Judge ought not to have been gone into the merits of the contents of the additional Written Statement.

4. Be that as it may, for the aforesaid reasons, the Petition being devoid of merits, stands dismissed.

(REVATI MOHITE DERE, J.)