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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1130 OF 2017

Mr. Jainuddin Ibrahim Attar

... Petitioner.

V/s

Mr. Abdulsattar Ibrahim Attar (Since deceased)
Through LRS and Ors.

... Respondents.

Mr. Avinash Avhad for the Petitioner.

Mr. Sachin Thorat for the Respondent Nos.1A, 1B, 1E, 1F, 1H, 1I, 1J, 2, 3,
4A, 4B & 5.

CORAM : A. S. GADKARI, J.
DATE : 12th MARCH, 2020

P. C. :

1. The petitioner has impugned Order dated 8th September 2016 passed below Exhibit-258 in Regular Civil Suit No. 169 of 2012 by the learned Joint Judicial Magistrate, First Class, Junnar, rejecting the said application for amendment of plaint filed by the petitioner/plaintiff.

2. By the said application, the petitioner was intending to amend his plaint thereby incorporating, one property which was left to be stated in the plaint at the time of its filing.

A bare perusal of said application below Exhibit-258 would indicate that, the petitioner has failed to show the basic ingredients as contemplated under the proviso to Rule 17 of Order 6 of the Code of Civil Procedure, i.e. “in spite of due diligence, the plaintiff could not raised said

issue before the commencement of trial.” It is an admitted fact on record that, after filing of Affidavit on evidence in lieu of examination-in-chief by the parties, the petitioner/plaintiff has filed the said application below Exhibit-258.

3. Mr. Thorat, learned counsel for the respondents submitted that, as of today the recording of evidence of petitioner is completed and the defendant No.1 would be cross examined by the petitioner /plaintiff.

4. In view of the above, I find that there is no merit in the petition. Petition is accordingly dismissed.

(A. S. GADKARI, J.)