

Bhogale

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2442 OF 2021**

Mocambo Cafe

.. Petitioner

vs.

The Manager, Estate Department,
United India Insurance Co. Ltd.

.. Respondent

Mr. Sajid Shamim I/b. S. Shamim and Co. for the Petitioner.
Mr. K.N. Kandekar for the Respondent.

CORAM : M.S.KARNIK, J.

DATE : JULY 8, 2021

(THROUGH V.C.)

P.C.

I have heard learned counsel Mr. Shamim for the Petitioner at length.

2. Briefly stated, learned counsel Mr. Shamim submitted that the Application for amendment is filed belatedly at the fag end of the proceeding. The same was made after recording of evidence was over. It is his submission that during the course of cross-examination the Respondent realised the fallacies in their pleadings and that a new case is sought to be made out. He also submitted that new grounds are raised for the first time which are not subject matter of the notice issued under Section 4 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. Mr. Shamim further submitted that there are no averments regarding due diligence in the Application for amendment which is a basic requirement for entertaining an Application at such belated stage.

3. I have gone through the impugned order. I see no reason to interfere with the impugned order at this stage. Considering that what has been allowed is an Application for amendment and as it is always open for the Petitioner to respond to the plea taken by the Respondent, further considering the fact that the proceedings before the Estate Officer are summary in nature, the Petitioner's liberty to challenge the impugned order in the event the final order passed is adverse to the Petitioner, can be kept open.

4. With this liberty, the Petition stands rejected.

(M.S.KARNIK, J.)