

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.5654 OF 2022

**GULAB KHAN AMIN KHAN THROUGH POWER OF ATTORNEY
HOLDERASHFAK KHAN GULAB KHAN PATHAN
VERSUS
RAJESH NANDLAL KHAIRAJANAI**

...
Advocate for Petitioner : Mr. G. R. Syed
...

CORAM : MANGESH S. PATIL, J.

DATED : 06 JUNE 2022

PER COURT :

. Heard.

2. The petitioner is the tenant facing a suit for eviction under the Maharashtra Rent Control Act, 1999.

3. The respondent landlord preferred an application seeking amendment of the plaint under Order 6 Rule 17 of the Code of Civil Procedure, so as to include the averments, whereby he wanted to demonstrate that during pendency of the suit about 4 to 5 days prior to the filing of the application, he got the knowledge about the petitioner having started the business at some other premises and has closed down the demised premises.

4. Question as to whether whatever is being sought to be included by way of proposed amendment has any grain of truth or otherwise is a matter to be decided at a full-fledged trial.

5. Needless to state that the petitioner would be entitled to controvert the averments sought to be included by way of proposed amendment, by filing additional written statement. It would not be appropriate for this court while exercising the writ jurisdiction to embark upon any scrutiny of the facts, which are better left for being decided by the trial court.

6. Whether in fact, whatever is being sought to be included now by way of proposed amendment, is true or otherwise is a matter to be decided by the trial court. The trial court has merely permitted the amendment to be carried out to includes some facts which according to the respondent-landlord have come to this knowledge during pendency of the suit.

7. In view of such state of affairs, when the parties are before the trial court in the eviction proceeding, the impugned order merely permitting the respondent - landlord to amend plaint, in my considered view, is neither perverse or arbitrary.

8. The writ petition is dismissed.

(MANGESH S. PATIL, J.)