

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

WRIT PETITION NO.723 OF 2022

Deepak Vasant Sadavarte

..Petitioner

Versus

Sunita Mahadev Gavali

..Respondent

Mr. Ashok B. Tajane, for the Petitioner.

Mr. Dnyaneshwar W. Bhosale, for the Respondent.

CORAM : NITIN W. SAMBRE, J.

DATE : 28th FEBRUARY, 2022

PC.

1. In a suit for recovery initiated by the respondent/ plaintiff, the petitioner/defendant took out application Exh.32 seeking amendment to paragraphs 9 and 10 thereby inserting paragraphs 9A and 10A which is rejected vide impugned order dated 6th March, 2021.

2. The submissions are, amendment is necessary for effective adjudication of the suit claim, whereas the counsel for the respondent/plaintiff opposed the prayer for amendment on the ground that petitioner is trying to prolong the suit. It is further claimed that initially the written statement was preferred at belated stage and subsequently by way of afterthought i.e. after the respondent/plaintiff filed his examination-in-chief, by way of amendment, the petitioner is trying to improve his defence.

3. As such, rejection is sought.

4. I have appreciated the submissions.

5. The law contemplates that the amendment to written statement, particularly keeping in mind the stage at which it is moved, is required to be considered literally.

6. The petitioner as such moved present application Exh.32 seeking amendment of the written statement. By way of amendment certain insertion and deletion is sought.

7. As far as the insertion by way of first paragraph of 9A and 10A is concerned, in my opinion, same can be granted, as the same will not cause any prejudice to the respondent/plaintiff. However, amendment to the extent of second paragraph 9A i.e. from "कैफियत कलम १० मधीलअसा मजकूर लिहनेस परवानगी असावी." cannot be granted, as the same amount to withdrawing the admission.

8. As such, petition stands partly allowed to the aforesaid extent.

9. The order impugned dated 6th March, 2021 passed below Exh.32 is quashed and set aside.

10. Application Exh.32 is allowed.

11. Petitioner is permitted to carry out amendment to the extent of what has been observed herein-above subject to the respondent/plaintiff will be entitled to withdraw the cost.

[NITIN W. SAMBRE, J.]