

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

WRIT PETITION NO.8599 OF 2017

Mr. Vishnu Dattatraya Barve	..Petitioner
Versus	
Bapurao Bhaurao Pujari	..Respondent

Dr. Uday P. Warunjikar, for the Petitioner.

CORAM : NITIN W. SAMBRE, J.

DATE : 25th JANUARY, 2022

PC.

1. Though served none appears for the respondent/ plaintiff.
2. The respondent initiated Special Regular Civil Suit No.35 of 2012 seeking compensation on the ground of publication of defamatory article. When the suit reached at the stage of recording of evidence, application Exh.89 came to be moved by the petitioner/defendant seeking amendment of the written statement which is rejected vide impugned order dated 7th February, 2017.
3. Since it is claimed by the petitioner that he got knowledge of filing of subsequent suit being Special Civil Suit No.160 of 2013 by the plaintiff recently, the same has prompted him for amendment of written statement.

4. The prayer is not objected by the respondent/plaintiff as he has chosen not to appear in the matter in spite of service being effected.

5. In the aforesaid background, considering the nature of amendment sought i.e. insertion of pleadings regarding filing of Special Civil Suit No.160 of 2013, in my opinion, no prejudice is likely to be caused to the respondent/plaintiff. That being so, application Exh.89 stands allowed by quashing and setting aside impugned order dated 7th February, 2017 subject to payment of cost of Rs.3000/- to be deposited in the Court below. Apportionment of the cost shall be appropriately ordered by the Court below i.e. Civil Judge Senior Division, Sangli with whom the suit is pending.

6. Once the cost is deposited, appropriate amendment be carried out.

7. Failure to deposit of cost will result into maintaining rejection of order passed below Exh.89.

8. As such, petition stands allowed in above terms.

[NITIN W. SAMBRE, J.]