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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3991 OF 2019

Prakash Laxman Kondurkar

..Petitioner

Versus

ICICI Bank Ltd.

..Respondent

Mr. V. Y. Sanglikar, for the Petitioner.

CORAM : NITIN W. SAMBRE, J.

DATE : 12th APRIL, 2022

PC.

1. Heard.

2. Based on contract of personal service, Suit No.9269 of 1994 was initiated by the petitioner, in which trial has commenced as the petitioner/plaintiff is in witness box under cross-examination.

3. The respondent/defendant had taken out Chamber Summons No.789 of 2018 seeking amendment, which is allowed vide impugned order dated 29th October, 2018. As such, this petition.

4. The submissions are, the amendment ought not to have been granted by the Court below, as the trial in the suit is at an advanced stage and the amendment is not germane for the cause to be decided in the suit based on the issues framed.

5. I have appreciated the said submissions.

6. The position of law to which the Court needs to be sensitive is while dealing with the prayer for amendment of the written statement, the Court need to have liberal approach.

7. The amendment which is sought, if incorporated by inserting pleadings in written statement are to strengthen the defence as to how the petitioner is not entitled for the dues. The ground of amendment is justified in the aforesaid background.

8. But for modification to the extent of increasing cost of Rs.5,000/- to Rs.25,000/-, I hardly see any reason which warrants interference in the order impugned.

9. However, the respondent/defendant is directed to deposit total amount of Rs.25,000/- by adjusting amount of Rs.5,000/-, if already so deposited. The amount of cost be deposited in the Court below within a period of six weeks from the date of production of this order and same being brought to the notice of the respondent/defendant.

10. The petition as such stands disposed of in above terms.

11. In case if the cost is not deposited as directed within the time stipulated, the Court below shall proceed ahead with the suit proceeding, as if the amendment to the written statement is not allowed.

12. In view of pendency of the suit for last about 28 years, hearing of the same is expedited.

[NITIN W. SAMBRE, J.]