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

WRIT PETITION 4445 OF 2022

Vijay Pandharinath Avhad

... Petitioner

Versus

Kamalakar Pundlik Mahajan and Ors.

... Respondents

Mr. B. V. Holambe-Patil for the Petitioner.

Ms. Preeti Walimbe for the Respondents.

CORAM: ROHIT B. DEO, J.

DATE : 13th JUNE, 2022

P.C. :-

. The petitioner is the defendant 4 in Special Civil Suit 298 of 2019 instituted by respondent 1 seeking money decree of Rs.1,28,50,000/- (Rupees One Crore Twenty Eight Lakhs and Fifty Thousand only). The claim has two components. Rs.65,00,000/- (Rupees Sixty Five Lakhs only) is claimed as loan due and payable and Rs.37,00,000/- (Rupees Thirty Seven Lakhs only) is claimed as professional charges. Rs.30,00,000/- (Rupees Thirty Lakhs only) is claimed as damages. It appears that in response to the suit claim, the defendants 2 and 3 filed written statement. It was contended that the defendant 1-company has not availed the loan from the plaintiff and it is the defendant 2 who has availed the loan in his individual capacity and not as Director of the Company.

2. In view of such defence, the plaintiff preferred an application

under Order VI Rule 17 of the Code of Civil Procedure, 1908 seeking appropriate amendment in the body of the claim and the prayer clause. This application seeking leave to amend is allowed by the learned Trial Judge by order 10th December, 2021.

3. The petitioner is the Director of the defendant 1 who has claimed that he has availed the loan in individual capacity and it is in view of such stand, that the plaintiff is permitted to amend the plaint. The Trial of the suit has not commenced as yet. In this view of the matter, I see no error whatsoever in the order impugned. Needless to observe, the petitioner shall be entitled to file his written statement on record within the next four weeks.

4. Subject to the observations supra, petition is dismissed.

[ROHIT B. DEO, J.]