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

WRIT PETITION NO. 5842 OF 2016

Mrs. Tabassum Mirvakely & Anr.
V/S

....PETITIONERS

Tehmi Sorabji Poonawala Pvt. Trust & Ors.

....RESPONDENTS

Mr. S. C. Wakankar for the Petitioners

CORAM : NITIN W. SAMBRE, J.

DATED : 6th OCTOBER, 2022

P.C.:

1. The petitioners are facing the suit under the Rent Act for possession on the ground of bonafide requirement, alteration and non-user in the capacity of defendant.
2. In the said suit the trial has already commenced. The prayer of the petitioners/defendants for amendment of written statement vide application at Exhibit - 63 came to be rejected vide impugned order dated 23/02/2016.
3. The contentions of the Mr. Wakankar, learned counsel appearing for the petitioners are, the amendment to the written statement is to be considered and granted by construing the position of law, however a liberal approach is required to be adhered to. He would further urge that the nature of amendment

is only clarificatory and that being so the Court below committed an error.

4. I have considered the aforesaid submissions in the backdrop of the nature of claim in the plaint, the defence raised by the petitioners and amendment sought.

5. After the rejection of prayer for amendment on 23/02/2016 the suit has traveled at an advance stage as the petitioner/defendant is in the witness box facing cross examination.

6. Apart from above, the nature of the amendment which is sought is well within the knowledge of the petitioners even at the time of filing of written statement. Once it is claimed by the petitioner that he is trying to amplify his defence in the written statement, it has to be inferred that the petitioner has already set up the said defence in the written statement.

7. In the aforesaid backdrop, in my opinion no case for interference is made out. The Petition as such fails and stands dismissed.

(NITIN W. SAMBRE, J.)