

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.1369/2018

Dhyaneshwar S/o Mahadeorao Wanjari

...Versus...

Baban S/o Balkrushnrao Warkad

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Shri K.J. Topale, Advocate for petitioner

CORAM : AVINASH G. GHAROTE, J.

DATE : 03/10/2022

1. Heard Shri Topale, learned counsel for the petitioner. The petition challenges the order dated 12/01/2018, which rejects the application for amendment made by the petitioner/defendant, which was filed when the matter was posted for cross-examination of the plaintiff.

2. Shri Topale, learned counsel for the petitioner submits that merely a plea regarding limitation and valuation of the suit claim, is being sought to be raised by the proposed amendment, as a result of which, the learned Trial Court ought not to have allowed the same. However, a perusal of the application for amendment at Exh.46 indicates that an admission is sought to be withdrawn, for which, there is no

ground given, considering which, I do not see any reason to disagree with the impugned order. Needless to say that the ground of limitation as well as absence of appropriate court fee on the suit claim are the grounds which are even otherwise permissible to be raised by the defendant at the final hearing of the suit, provided material to that effect is brought out by way of evidence. The writ petition is, therefore, dismissed. No order as to costs.

(AVINASH G. GHAROTE, J.)

Wadkar