

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

Writ Petition No.5764 of 2019

Amol Rameshwar Yeginwar

vs.

Ku. Chetna Mahadeorao Hanwate

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

Court's or Judge's Orders

Mr. R.L. Alone, Advocate for the Petitioner.

Mr. A.A. Dhawas, Advocate for the Respondent.

CORAM : MANISH PITALE, J.

DATE : 5th APRIL, 2022.

By this writ petition, the petitioner has challenged order dated 16/01/2018, whereby the petitioner sought to amend his written statement to the counter claim filed by the respondent. The proposed amendment was based on certain events that had occurred during the pendency of the suit and the counter claim, including the construction work on the first floor of the structure in question and the assertion on the part of the petitioner that tenants were to vacate certain premises.

02] The Court below had rejected the amendment on the ground that the same has been moved based on apprehension and not on concrete facts.

03] Heard the learned Counsel for the rival parties.

04] It is settled law that while considering amendments in the written statements, the Court is supposed to be liberal. In the written statement, contradictory and alternative pleas are also permitted and in

the case of Revajeetu Builders and Developers vs. Narayanaswamy and sons and others – (2009) 10 SCC 84, the Hon'ble Supreme Court has emphasized upon the manner in which amendments to pleadings, particularly written statements are to be considered.

05] A perusal of the proposed amendment would show that the harsh findings rendered by the Court below in the impugned order are not justified. Allowing the amendment obviously does not mean that the assertions made by way of amendment on behalf of the petitioner would have to be accepted as gospel truth by the Court. Such pleadings would obviously be put to test by the Court in accordance with law and an opportunity would be given to the contesting party to oppose the claim made therein.

06] In view of the above, the writ petition is allowed. The impugned order is quashed and set aside. Application [Exh.36] for amendment of written statement to the counter claim moved on behalf of the petitioner is allowed.

07] The suit is pending before the Court below since the year 2013 and, hence, it is directed that the proceedings shall be expedited. The suit and the counter claim shall be disposed of within a period of eight months from today. The parties shall cooperate with the Court below for disposal of the suit and the counter claim in the aforesaid period of time.