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

WRIT PETITION NO.11348 OF 2023

Infrastructure Logistics Private Limited ... Petitioner

V/s.

Manorama Anant Rawool & Ors. ... Respondents

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Mr. Vaibhav Charalwar a/w Mr. Shiraj Salekar a/w. Ms.
Rekha Thakkar i/by Lexicom Law Partners, for the
Petitioner.

Mr. Satish Muley, Mr. Mosin Naik, for Respondent
Nos.1 to 44.

Mr. Tahir Hussain, for Respondent No.53.

Mr. P. P. Pujari, AGP, for the State-Respondent.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 12, 2023

P.C.:

1. By the impugned order the application to amend cause title of counter claim is rejected by the Trial Court.
2. The petitioner has filed affidavit of service of respondents.
3. Affidavit is taken on record.
4. It appears that the petitioner is original defendant No.11. On 22 November 2022, he filed an application to amend cause title of the counter claim.
5. The Trial Court applied parameters of Order 6, Rule 17 of

the Code of Civil Procedure, 1908 (for short 'CPC) for rejection of application for amendment. The Trial Court has failed to consider provisions under Order 6, Rule 1 of CPC. The Order 6, Rule 1 of CPC reads as under:

“1. Pleading. – “Pleading” shall mean plaint or written statement. **2. Pleading to state material facts and not evidence.** – (1) Every pleading shall contain, and contain only, a statement in a concise form of the material facts on which the party pleading relies for his claim or defence as the case may be, but not the evidence by which they are to be proved.”

6. On reading of Order 6, Rule 1 of CPC, it is clear that pleading means plaint or written statement, the cause title of counter claim does not amount to pleading; therefore, parameters of Order 6, Rule 17 could not have been applied while amending the cause title of counter claim. Therefore, the impugned order cannot be sustained. Hence, pass following order:

- a) The impugned order dated 6 February 2023 passed by the Civil Judge, Senior Division, Sindhudurg at Oros in Regular Civil Suit No.19 of 2008 is quashed and set aside.
- b) The application below Exhibit 184 in Regular Civil Suit No.19 of 2008 stands allowed.

7. The writ petition stands disposed of. No costs.

(AMIT BORKAR, J.)