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

WRIT PETITION NO.3919 OF 2014

George Kuruvilla Koshya Kuruvilla,
deceased through legal heirs ... Petitioner

V/s.

Ommen Kuruvilla Peter Kuruvilla ... Respondent

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Mr. Shrishailya S. Deshmukh for the petitioner.

Mr. Ommen Kuruvilla Peter Kuruvilla, respondent
present in-person.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 4, 2023

P.C.:

1. The impugned order rejects application for amendment of the written statement in a suit for injunction restraining defendants from disturbing the plaintiff's possession over the suit property.

2. On perusal of the amendment application, it appears that absolutely no reason is specified giving sufficient cause or due diligence as contemplated by the proviso to Order 6 Rule 17 of the Code of Civil Procedure, 1908. In absence of such cause being pleaded, in view of the judgment of the Apex Court in **Vidyabai & Ors. v. Padmalatha & Anr.** reported in (2009) 2 SCC 409, the Trial Court was justified in rejecting the application as the

Apex Court in the case of **Vidyabai** (supra) has held that due diligence is a jurisdictional fact and in the absence of recording such satisfaction, the Trial Court would not get jurisdiction to allow the amendment. Therefore, there is no error in the order impugned.

3. The writ petition, therefore, stands dismissed. No costs.

(AMIT BORKAR, J.)