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

**WRIT PETITION NO. 2441 OF 2023**

Sushma Vishwanath Konde

.. Petitioner

**Versus**

Meena Pramod Jadhav and Anr.

.. Respondents

- .....
- Mr. Shailendra S. Kanetkar a/w. Mr. Aditya Bendre Advocate for Petitioner.

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**CORAM : MILIND N. JADHAV, J.**

**DATE : MARCH 03, 2023.**

**P.C.:**

- 1.** Heard Mr. Kanetkar, learned Advocate for the Petitioner.
- 2.** Perused the impugned order passed by the learned Trial Court which is handwritten order on an Application filed under Order VI Rule 17 of the Civil Procedure Code, 1908 (for short “**CPC**”). Respondent No.1 is the Plaintiff before the learned Trial Court.
- 3.** Application dated 31.10.2020 filed by the Plaintiff seeks to amend the name of Petitioner (Defendant No.1 in the Suit) by adding an alias after the name of Defendant No.1 Sushma Vishwanath Konde. Perusal of the impugned order shows that the Petitioner (Defendant No.1 therein) was not heard by the learned Trial Court before passing the said order. That apart, Mr. Kanetkar has drawn my attention to the pending Application dated 27.06.2019 which was filed by the

Petitioner herself whereby the Petitioner (Defendant No.1 therein) desires her name which she has used since long to create her own identity i.e. Sushma Vishwanath Konde to be stated. In short, Petitioner has serious objection to the inclusion of the name of “Sushma Ravindra Patil” and therefore she sought deletion and substitution of the said name by substituting her name as “Sushma Vishwanath Konde” only.

**4.** Perusal of record would indicate that both the above Applications were pending on the date when the impugned order was passed. Ideally both these Applications ought to have been heard together and decided. It is seen that Application filed by Respondent dated 31.10.2020 has been decided by the learned Trial Court by the impugned order, the typed copy of which is at page No.37 to the Writ Petition. The only reason given by the learned Trial Court is that the Application filed by the Plaintiff to show both the names needs to be allowed as the amendment appears to be bonafide and necessary to determine the real controversy between the parties.

**5.** Be that as it may, this Court is of the opinion that the Petitioner ought to have been heard and more particularly when her own Application dated 27.06.2019 filed below Exhibit-21 was pending on the record and file of the Trial Court and the same should had been decided alongwith Application filed by the Plaintiff under Order VI

Rule 17 of the CPC.

**6.** In view of the above observation and findings, the impugned order is not sustainable and stands quashed and set aside and the Application for amendment is directed to be reheard.

**7.** The learned Trial Court is directed to decide the Application under Order VI Rule 17 of the CPC filed by the Plaintiff dated 31.10.2020 alongwith Application filed below Exhibit-21 by the Petitioner (Defendant No.1 therein) dated 27.06.2019 together, hear both the parties and pass a reasoned order thereafter.

**8.** With the above directions, Writ Petition is disposed.

[ MILIND N. JADHAV, J. ]

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