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

**WRIT PETITION NO.14427 OF 2022**

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Kalpesh Eknath Mavlankar

... Petitioner

**V/s.**

Rashmi Radhakrishna Dhuri

... Respondent

Mr. Rajendra K. Yadav for the petitioner.

Mr. Kumar M. Ghind with Mr. Ankesh Thakur for the respondent.

**CORAM : AMIT BORKAR, J.**

**DATED : SEPTEMBER 27, 2023**

**PC.:**

**1.** The challenge in this writ petition under Article 227 of the Constitution of India is to the order passed by the Trial Court refusing to postpone the hearing of an application under Order 7 Rule 11 of the Code of Civil Procedure, 1908 ("CPC" for short) on the ground of pendency of application for amendment of the plaint.

**2.** On perusal of the averments in the suit and averments in the application made under Order 7 Rule 11(b) of the CPC, in my opinion, the averments made in the application under Order 7 Rule 11 of the CPC has no relevance to the application for amendment. The application for amendment needs to be decided based on facts contemplated by Order 6 Rule 17 of the CPC. The

application under Order 7 Rule 11 of the CPC needs to be decided based on the bar created under the statute taking into consideration plaint and documents annexed with the plaint.

**3.** On perusal of the record, in the facts of the case, the proposed amendment has no relevance to the bar pleaded by the defendant. Therefore, I find no reason to interfere with the order passed by the Trial Court.

**4.** The writ petition is dismissed. No costs.

**(AMIT BORKAR, J.)**