

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Writ Petition (WP) No. 7585 of 2022

Rajani W/o Yamanrao Mathurkar

Versus

Krushnarao S/o Hiraram Bhivgade

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri H.G.Katekar, Advocate for the petitioner.

CORAM : ANIL S. KILOR, J.

DATED : 22nd FEBRUARY, 2023.

Heard.

2. Rejection of amendment application under Order VI Rule 17 of the Code of Civil Procedure, 1908 (hereinafter referred as 'CPC') vide impugned order dated 17th September, 2020 passed below Exhibit 166 by the Civil Judge, Senior Division, Bhandara, is under challenge in this writ petition.

3. After going through the impugned order, it is evident that the amendment application was moved after the commencement of the trial and therefore while considering the application for amendment Exhibit 166, the Court has found that no pleadings or any justification is given in the application, wherefrom, it

can be gathered despite the due diligence, the plaintiff could not have raised the matter before the commencement of the trial. Accordingly, the application was rejected.

4. After going through the application, I am convinced with the findings recorded by the learned trial Court that no pleadings are made on the basis of which the Court can come to the conclusion that inspite of due diligence, the party could not have raised the matter before the commencement of the trail.

5. In the circumstances, though the learned counsel for the petitioner submits that the amendment is necessary to the counter claim, in absence of pre-requisites, I am not inclined to interfere with the impugned order. Accordingly, the writ petition is dismissed.

[ANIL S. KILOR, J.]

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