

VRJ

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

WRIT PETITION NO.6173 OF 2017

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Bhimashankar Mallikarjun Patane & Ors. ... Petitioners

V/s.

Ratnabai Basgondappa Terdale & Ors. ... Respondents

Mr. Saakshat Relekar i/by Mr. Surel S. Shah for the
petitioners.

CORAM : AMIT BORKAR, J.

DATED : NOVEMBER 26, 2024

P.C.:

1. The petitioners' application for amendment of written statement has been rejected by the Trial Court mainly on the ground that the petitioners have failed to plead due diligence on the part of the petitioners as required under Order 6 Rule 17 of the Civil Procedure Code, 1908. The law in this regard is no longer res integra in view of the judgment in case of **Vidyabai & Ors. vs. Padmalatha & Anr.** reported in (2009) 2 SCC 409. Since the pleading of due diligence being held to be jurisdictional fact and in absence of said pleading the Trial Court was justified in rejecting the application, no interference is called for. The writ petition is, therefore, dismissed.

2. Pending interlocutory application(s), if any, stand disposed of.

(AMIT BORKAR, J.)