

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.16517 OF 2023

Shri.Siddhu Appa Patil

.... Petitioner

V/s.

Smt.Lakshmi Vasant Patil & Ors.

.... Respondents

NILAM
SANTOSH
KAMBLE

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Mr.Sumedh Modak i/b Mr.Vijay Killedar, for the Petitioner.
Mr.Prajakt Arjunwadkar, for Respondent Nos.1 to 7.

CORAM : SHIVKUMAR DIGE, J.

DATE : 21st NOVEMBER 2024

P.C:-

1. The learned counsel for the Petitioner submits that, the Respondent had filed an Application seeking amendment in written statement, under the pretext of filing such Application. The Respondent had sought relief of counter but the Trial Court has not considered this fact and allowed the said Application, which is erroneous. Hence, requested to allow the Petition.

2. The learned counsel fairly submitted that, if issue of maintainability of the counter claim is framed it would suffice and in view of it, this Writ Petition can be disposed of.

3. The learned counsel for the Respondent consented for it.

4. I have heard both learned counsel.

5. The learned Trial Court has permitted to carry out amendment in the written statement.

6. It is contention of the learned counsel for the Petitioner that, under the disguise of amendment in written and statement relief of counter claim is sought. As per statement of the learned counsel for the Petitioner if the learned Trial Court is directed to frame additional issue regarding maintainability of the counter claim it would suffice and I pass following order.

ORDER

(i) The Writ Petition is partly allowed.

(ii) The learned Civil Judge Junior Division, Kurundwad is directed to frame additional issue in Civil Suit No.74 of 2012 regarding maintainability of the counter claim. It be decided with other issues.

(iii) Both the parties are permitted to lead

evidence on the additional issue along with other
issues.

(SHIVKUMAR DIGE, J.)