



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

1006 WRIT PETITION NO. 1412 OF 2023

RAMKISHAN GANGARAM TIKHE
VERSUS
RAMRAO GANGARAM DHOLE

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Advocate for the Petitioner : Mr. Bora Satyajit S.
Advocate for Respondent No.1 : Mr. Rathi Swapnil S.

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CORAM : SIDDHESHWAR S. THOMBRE, J.
DATE : 17.12.2025

PER COURT :

1. Heard the learned Counsel for the respective parties .
2. By way of present petition, the petitioner assails the order dated 03.01.2023 passed below Exhibit 21 by Joint CJSD, Parbhani in RCS No. 59 of 2019, whereby, the application filed by the petitioner under Order VI Rule 17 of the Code of Civil Procedure, 1908 for seeking amendment in the Written Statement came to be rejected.
3. Learned Counsel for the petitioner Mr. Bora, points out that earlier the Written Statement was filed but subsequently four pocket diaries were found wherein certain transactions were revealed. Therefore, petitioner filed application to include those transactions in the Written Statement by way of an amendment. Though the stage of evidence was commenced, the transactions intended to be included were similar to the transactions already pleaded in the Written Statement, therefore,

allowing the amendment would not have changed the nature of the earlier stand taken in the Written Statement.

4. In support of his contention he relied on case law laid down by the Hon'ble Apex Court in the matter of **Life Insurance Corporation of India Vs. Sanjeev Builders Private Limited and Others – AIR 2022 SC 4256** and the order passed by this Court in **Ramdas Sitaram Zaware and Others Vs. Namdev Kondiba Zaware, since deceased per LRs. In Writ Petition No. 9793 of 2017** and contended that the learned trial Court committed an error apparent.

5. Per Contra, learned Counsel for the respondent Mr. Rathi, submits that the Written Statement was filed in the year 2019 and the pleadings proposed to be included by way of amendment related to the year 2019 only. The diaries were maintained till 2019 and the suit was filed on 21.08.2019 therefore, the defendant was having knowledge of the transactions at the time of filing of Written Statement. He further submits that there was no due diligence in the conduct of defendant and the reason was not explained by the defendant while filing application for amendment. In support of his contention, he relied upon the law laid down by the Hon'ble Apex Court in the case in **LIC's case** (supra), particularly on paragraph 70 (v) .

6. I have gone through the order passed by learned trial Court. It reveals that defendant has filed Written Statement after framing of the issues and now the trial has commenced. The plaintiff has filed his affidavit of examination-in-chief and the matter is kept for cross-

examination of plaintiff. Thereafter, the defendant filed an application for amendment of Written Statement. The earlier Written Statement contained specific contention relating to forgery in paragraph No. 5. In the continuation of his earlier Written Statement he wanted to include transactions revealed in four pocket diaries, which were not known to him at the time of filing of Written Statement. No contrary stand was taken by respondent in the proposed amendment.

7. The learned trial Court while rejecting the application has observed in paragraph No. 8 that plaintiff and one Ramrao Aher had prepared a forged document and pleadings to that effect were already in the earlier Written Statement.

8. Though Mr. Rathi points out that in paragraph No. 7 the learned trial Court has recorded a finding that defendant was taking a contrary stand by way of proposed amendment and therefore, the application has been rejected.

9. After going through the law laid down by the Hon'ble Apex Court in the case of **the LIC** (Supra) , particularly paragraph No. 70 (v), wherein, the Hon'ble Apex Court has held that while dealing with the amendment applications, the Court should avoid hyper technical approach and shall adopt a liberal view.

10. I am of the opinion that the proposed amendments are not contrary to the original pleadings of the defendant and therefore, I am inclined to allow the present petition.

11. In view thereof, the Writ Petition is allowed. The order dated

03.01.2023 passed below Exhibit 21 by Joint CJSD, Parbhani in RCS No. 59 of 2019 is quashed and set aside subject to cost of Rs. 25,000/- (Rs. Twenty Five Thousand Only).

12. The cost to be deposited within a period of two weeks and the same shall be transmitted to the Government Cancer Hospital, Chhatrapati Sambhajanagar.

13. As this Court has allowed the application for amendment in Written Statement, the plaintiff is at liberty to file fresh affidavit of examination-in-chief.

(SIDDHESHWAR S. THOMBRE, J.)

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