



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3480 OF 2024

Vasant Baburao Sagare

VERSUS

Mayur Navnitlal Shah And Another

- Mr. T. M. Venjane, Advocate for the Petitioner
- Mr. P. P. More, Advocate for the Respondent No. 1

CORAM : R. M. JOSHI, J

DATE : SEPTEMBER 10, 2025

PER COURT :

1. This Petition takes exception to the order dated 08.08.2023 passed below Exh. 88 in RCS No. 290/2017 whereby application filed by Defendant No. 1 under Order VI, Rule 17 of Code of Civil Procedure for amendment of the written statement came to be rejected.

2. There is no dispute about the fact that Respondent filed suit. Petitioner/Defendant filed written statement. During the pendency of the trial, Respondent/Plaintiff amended the plaint and permission was granted to the Defendant to file additional written statement. Further, there is no denial of the fact that the Plaintiff has led his evidence and the stage of the proceeding is for the evidence of Defendant. At this stage, Application Exh. 88 came to be moved for seeking

amendment to the written statement. Learned Trial Court in the impugned order has made observation that all the facts sought to be amended are already pleaded in paragraph 6 though in short. Application is also came to be rejected on the ground that no due diligence has been shown by Defendant No. 1.

3. Learned Counsel for Petitioner/Defendant submits that the observations of the Trial Court indicate that no new case is sought to be made out by the Defendant in the written statement. It is his submission that by imposing appropriate cost, the written statement can be permitted to be amended.

4. Learned Counsel for Respondent/Plaintiff supported the impugned order.

5. The law on the point of amendment to the written statement is not as strict as it is in respect of amendment to the plaint. The observations of the Trial Court in the impugned order indicates that information sought to be brought on record by way of amendment are already pleaded in the written statement but in short. Meaning thereby, the amendment sought to be

carried out to the written statement is only by way of elaboration. No new case is sought to be made. In such circumstances, in order to give fair opportunity to the Defendant, the Trial Court ought to have allowed the Application by imposing appropriate cost. In the facts of the case, the cost is determined at Rs. 10,000/- (Rupees Ten Thousand) payable by the Defendant to the Plaintiff.

6. In view of above, Petition stands allowed. Application Exh. 88 stands allowed subject to payment of cost. Amendment be carried out within a period of two weeks from today before Trial Court. Trial Court to ensure that the cost is already paid to the Plaintiff before amendment is done.

7. Both parties make statement that endeavor would be made to cooperate in the disposal of suit in expeditious manner. In view of the fact that the suit is more than 7 years old case, Trial Court is directed to decide the same expeditiously, and in any case, within a period of six months from today.

(R. M. JOSHI, J.)