



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 11065 OF 2024

Rashid Kashimsab Bagwan
VERSUS
Nizam Bashirsab Bagwan And Others

Mr. H. V. Tungar, Advocate for Petitioner

CORAM : R. M. JOSHI, J.
DATE : 18th March, 2025

PER COURT :-

1. This petition takes exception to the order dated 04.03.2024 passed below Exhibits 110 and 113 in Regular Civil Suit No. 189/2012 whereby the application filed under Order VI Rule 17 by petitioner/plaintiff came to be rejected.
2. None appears for Respondents/original defendants. Their absence indicates that they have no inclination to oppose the petition.
3. Learned counsel for the Petitioner submits that perusal of the Application Exhibits 110 and 113 indicates that by permitting the amendment to the plaint, no additional claim has been made by the plaintiff and in fact there is relinquishment of the portion of the claim would be made in the original plaint. It is his submission that if the amendment is allowed, the nature of the suit has not going to be changed. He, on instructions, makes statement that the petitioner-

plaintiff is not intending to lead any evidence and hence would not lead any evidence before the Trial Court except for placing on record the certified copies of the judgment passed in judicial proceedings. This statement is accepted as undertaking.

4. Perusal of the Application Exhibits 110 and 113 indicates that the petitioner has restricted his claim and not making any additional claim against the defendants, in spite of this learned Trial Court has held that the nature of the suit is likely to be changed. However, apparently amendment sought would not change the nature of suit. In view of the statement made by the petitioner-plaintiff about not leading any evidence except for placing on record certified copies of the orders passed by the Court, likelihood of the suit get protracted.

5. In view of the above, impugned order set aside. Application Exhibit 110 and 113 stands allowed. Petitioner-plaintiff shall not be permitted to lead any evidence except for placing on record certified copies of the judgment of the Court. Defendants if desires to file written statement, they be permitted to do so.

(R. M. JOSHI, J.)

bsj