



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

WRIT PETITION NO. 8720 OF 2024

Vilas Shantaram Nagarkar
VERSUS
Madhuri Rajesh Malwadkar And Others

Mr. G. S. Rane, Advocate for Petitioner

CORAM : R. M. JOSHI, J.
DATE : 07th March, 2025

PER COURT :-

1. None appears for Respondents.
2. This petition takes exception to the order dated 13.06.2024 passed in Misc. Civil Application No. 778/2022 whereby application filed by the petitioner/respondents there in under Order VI Rule 17 for amendment to say/written statement is dismissed.
3. Respondents filed Misc. Civil Application No. 778/2022 under the provisions of Bombay Regulation Act, 1927 (for Short "**the Act**") for seeking heirship certificate. Petitioner appeared in the said proceeding and filed written statement at Exhibit 19. In the written statement, he made certain averments with regard to the mutation of the names of both sides in the record of right in respect of the subject property.
4. Thereafter, application is filed seeking amendment thereto by

taking altogether different stand. This application is rejected by the Trial Court by holding that the party cannot be permitted to withdraw admission given in the written statement.

5. Learned counsel for the Petitioner has tried his best to convince this Court that the application for amendment does not amount to withdrawal of admission. This Court, however is unable to accede to the said submission for the reason that prima facie perusal of the written statement clearly indicates there are some admissions given by the petitioner therein, which are sought to be withdrawn now by amendment of pleadings. This is wholly impermissible in law.

5. Learned counsel for the petitioner also points out in the substantive suit filed by the sister of the petitioner, contention now sought to be amended is already taken. Needless to say that the proceedings under the Act are summary in nature and there is no determination of the rights of the parties in the said proceedings which could only be done in substantive suit.

7. Petition, therefore, stands dismissed.

(R. M. JOSHI, J.)

bsj