



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

2 WRIT PETITION NO. 9097 OF 2025

MURLIDHAR ANANDA AGHAV

VERSUS

JIJABA ANANDA AGHAV DIED THR LRS CHANDRABHAGA JIJABA AGHAV
AND OTHERS

.....

Mr. A. D. Khot h/f Mr. A. D. Khedkar, Advocate for the Petitioner

CORAM : R. M. JOSHI, J.

DATE : 18th AUGUST, 2025

PER COURT :-

1. Heard.
2. This Petition takes exception to the order passed below Exhibit 117 for amendment to the written statement by the Trial Court in R.C.S. No. 549/2015.
3. It is sought to be argued on behalf of the Petitioner that the Petitioner would like to correct the typographical error in the written statement and also to bring on record the subsequent fact of filing of proceeding by Plaintiff Nos.1A and 1C bearing Civil M.A. No. 251/2025 for obtaining succession certificate of deceased Jajaba Ananda Aghav. It is his contention that this fact is relevant for the decision of this case, so also the amendment sought by way of adding paragraph 16D is

necessary.

4. It is not in dispute that the present Application has been filed after the trial has commenced. In view of the proviso to under Order 6 Rule 17 of the Code of Civil Procedure it is necessary for the party to first show due diligence and then the Court acquires the jurisdiction to pass any order. Perusal of the Application does not indicate any due diligence. Even if it is accepted for the sake of argument that the Clause No. 16E is sought to be added is in respect of the subsequent event. However, perusal of the pleadings sought to be included therein, does not indicate this to be a defence of the Defendants. Pertinently, the Defendants have already filed written statement seeking specific plea challenging the status of Plaintiff No.1A to be a wife of deceased Jijaba and 1B and 1C to be the children of Jijaba and Plaintiff No.1A. Once such defence has been raised, no prejudice will cause to the Petitioner if the amendment is refused.

5. In so far as amendment in respect of Clause 16D sought to be added to the Plaintiff is concerned, these facts were well within the knowledge of the Defendants when the written statement was filed. As such, without showing due diligence for not incorporating the same in the written statement, the same cannot be permitted after the trial has commenced.

6. This Court, therefore, finds no perversity in the order of rejection of the Application filed by the Defendants. Hence, Petition stands dismissed.

(R. M. JOSHI, J.)

ssp