



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

WRIT PETITION NO. 1153 OF 2024

Kavita Balaji Katake Through Her Power Of Attorney Holder Balaji
Digambar Katake

VERSUS

Chief Officer Nagar Parishad Ausa

Mr. A. P. Bhandari, Advocate for Petitioner

CORAM : R. M. JOSHI, J.

DATE : 13th March, 2025

PER COURT :-

1. This petition takes exception to the order dated 09.11.2023 passed by Trial Court below Exhibit 140 in Regular Civil Suit No. 566/2012 whereby application filed by defendant Municipal Council under Order VI Rule 17 for amendment of the written statement came to be allowed.

2. Record indicates that petitioner/plaintiff filed suit in the Municipal Council for injunction restraining the Council from causing interference in the possession of the plaintiff over the suit property. Defendant-Council filed written statement on 07.02.2013. Thereafter, Trial Court proceeded. Plaintiff recorded his evidence and his evidence is closed. Perused thereafter the application for amendment to the written statement came to be filed on behalf of the defendant-council. Since

application is allowed, this petition.

3. Learned counsel for petitioner submits that Trial Court has not considered the proviso to Order VI Rule 17 of the Code of Civil Procedure before allowing the application which is filed after the commencement of trial. It is his further submission that there is absolutely no explanation for not making any attempt to seek amendment to the written statement at earlier point of time. He, therefore, seeks setting aside the impugned order.

4. None appears for respondent Council.

5. Perusal of the application Exhibit 140 read with written statement indicates that amendment sought is relevant to the decision of the case. The law on the point of amendment to the written statement is settled to say that the amendment to the written statement needs to be granted liberally as compared to the amendment to the plaint. Even, in this case, no prejudice or irreparable loss ought to have been caused to the plaintiff. The Trial Court has imposed cost of Rs. 2,000/- which in view of this Court is sufficient condition for allowing the amendment.

6. Closure of the evidence of the plaintiff also would not cause any prejudice to him for the reason that it is open for the plaintiff to lead further evidence, if so desires. Hence, in view of the facts of the case,

and for want of perversity, this Court finds no reason to cause interference in impugned order.

7. Hence, petition stands dismissed.

(R. M. JOSHI, J.)

bsj