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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 1153 OF 2011

Shobha Pandurang Patil .. Petitioner

Versus

Balwant Nana Patil & Ors. .. Respondents

None for the parties.

CORAM: ALOK ARADHE, CJ.

DATE: 16th JULY, 2025

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DASHARATH
PANDIT

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ORAL ORDER:

1. In this petition under Article 227 of the Constitution of India, petitioner has assailed the validity of the order dated 10th January, 2011 passed by the trial court in Regular Civil Suit No. 30 of 2009 by which the application seeking amendment of the plaint has been rejected.

2. Facts giving rise to filing of this petition, in nutshell, are that the petitioner had filed suit seeking relief for specific performance of contract. The defendants contested the suit by filing their written statement. The petitioner filed an application under order VI Rule 17 of the Civil Procedure Code, 1908 for correction of typing mistake in the boundaries mentioned in the plaint. The trial court has rejected the aforesaid application on the ground that the petitioner failed to satisfy that he could not raise the issue before commencement of trial inspite of due diligence.

3. From the perusal of the record, it is evident that the trial in the suit is yet to commence as well as the evidence of the witnesses is not commenced. The trial court has failed to appreciate that the proposed amendment of the plaint is necessary. The impugned order, therefore, suffers from jurisdictional infirmity as well as error apparent on the face of the record. It is accordingly quashed and set aside.
4. In the result the writ petition allowed.
5. Let a copy of the order be communicated to the trial court.

(CHIEF JUSTICE)