

VRJ

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

WRIT PETITION NO.4772 OF 2023

VAIBHAV
RAMESH
JADHAV
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Baburao Dnyanu Shinde	... Petitioner
V/s.	
Shivaji Shankar Shinde & Ors.	... Respondents

Mr. Rushikesh C. Barge for the petitioner.

Mr. Nikhil Wadikar (through V.C.) i/by Mr. Nandu Pawar for respondents.

CORAM : S. G. CHAPALGAONKAR, J.

DATED : NOVEMBER 4, 2025

P.C.:

1. Present Writ Petition takes exception to the order dated 13th December 2022 passed by learned Civil Judge, Junior Division, Satara, below Exhibit 144 in Regular Civil Suit No. 387 of 2018, whereby the application filed by Respondents/Defendants seeking amendment of the written statement has been allowed.

2. Learned Advocate appearing for the Petitioner submits that, in fact, the evidence affidavit of the witnesses had been tendered. Thereafter, no-cross order was passed against Defendants, which was later set aside. At this stage, an application was filed seeking

amendment of in the written statement, which could not have been allowed as it was filed at a belated stage and does not satisfy the test of due diligence.

3. Learned advocate appearing for respondents, however, supports the impugned order.

4. Having considered the submissions advanced, it can be observed that application seeking amendment in written statement was filed when the cross-examination of witnesses had yet to commence. Although Plaintiff had tendered evidence affidavit, unless the cross-examination begins, it cannot be said that trial has commenced. Therefore, embargo contemplated under proviso to Order VI Rule 17 of the Code of Civil Procedure, 1908, would not operate in present case. The Trial Court has rightly considered the aforesaid aspect and allowed amendment in written statement. This Court do not find any jurisdictional error requiring interference under Article 227 of the Constitution of India. Hence, the Writ Petition stands rejected.

5. Pending interlocutory application(s), if any, stand disposed of.

(S. G. CHAPALGAONKAR, J.)