

VRJ

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

WRIT PETITION NO. 10 OF 2025

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RAMESH
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Nitin Kashinath Garje

... Petitioner

V/s.

Santosh Prabhatkumar Javalkar

... Respondent

Mr. Anvil S. Kalekar for the petitioner.

Mr. Hrishikesh S. Shinde for the respondent.

CORAM : S. G. CHAPALGAONKAR, J.

DATED : NOVEMBER 14, 2025

P.C.:

1. Heard learned advocates appearing for respective parties.
2. This writ petition takes exception to order dated 15th November 2024 passed by learned Civil Judge, Junior Division, Solapur, below Exhibit 98 in Regular Civil Suit No.444 of 2021.
3. Petitioner is defendant in Regular Civil Suit No.444 of 2021. Respondent filed proceeding for eviction on the ground of bona fide requirement. It is the contention of petitioner that respondent has alternate property, i.e., a shop in City Survey No.3982/1. The aforesaid contention is already taken in written statement. By way

of present application, petitioner wants to bring on record that said property has been given on rent by the respondent to a third person. This fact is admitted by respondent in his say to the application for amendment. In this background, learned Trial Court refused to entertain the application seeking amendment in written statement, firstly on the ground that application was filed at a belated stage, i.e., after the evidence of respondent-plaintiff was recorded and when matter was listed for evidence of defendant.

4. Having considered the submissions advanced by learned advocates appearing for respective parties, it cannot be observed that proposed amendment in the written statement has been brought when the evidence of defendant was recorded. Although petitioner contended that amendment is pertaining to subsequent events, no clarification is given as to when he got knowledge of facts to be brought on record. There is no proper explanation for the delay in bringing amendment at the belated stage.

5. In this circumstances, learned Trial Court rightly relied upon observations of this Court in case of *Bharat Petroleum Corporation Ltd. v. Precious Finance Investment Pvt. Ltd.*, reported in 2007(1)

Mh.L.J. 331, and observed that a party must establish due diligence when the amendment is sought after commencement of trial. Even otherwise, considering the nature of proposed amendment, no prejudice would be caused to defendant if the amendment is not permitted. The defendant can bring all those facts on record before this Court by filing necessary documents and argue the matter based on them.

6. In that view of the matter, case is made out for interference under Article 227 of the Constitution of India. Hence writ petition is rejected.

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

(S. G. CHAPALGAONKAR, J.)