



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Writ Petition No. 1216 of 2025

Nirmalkumar s/o Haribhauji Chacharkar ..vs.. Dr. Babasaheb Ambedkar Bahuuddheshiya
Sanstha, Umrer, through its President Nirnan Mate and anr.]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. N. R. Tekade, Advocate for the petitioner

CORAM : ANIL L. PANSARE J.

DATED : 05-03-2025

Heard.

2. The petition arises out of the order dated 7-2-2025 passed by 2nd Joint Civil Judge Junior Division, Umred below Exhibit 41 in R.C.S. No. 9/2022 whereby the application filed by the petitioner – original defendant under Order VI Rule 17 of the Code of Civil Procedure, 1908 (for short ‘the Code’) seeking amendment in the written statement came to be rejected.

3. The respondents – original plaintiffs have filed suit for possession and compensation. The respondents claim to be owner of the suit property. According to them, the petitioner’s father was their tenant and upon death of petitioner’s father, the tenancy came to an end and, therefore, the suit was filed. The petitioner filed written statement and opposed the suit. The issues were framed. The respondents led evidence and closed their side. The matter was fixed for evidence of petitioner. He filed affidavit in lieu of examination-in-chief. Thereafter, he filed application to amend the written statement on the ground that he had received certain documents under Right to Information Act, that would show that suit property is not owned by the respondents. The application, however, is completely silent as to why were these documents not sought at

any time till the issues were framed. The trial Court noted that in the written statement, the petitioner has not questioned ownership of the respondents and, therefore, the amendment, if allowed, will change the nature of defence, which would cause prejudice to the respondents. Thus, in a way, the trial Court has held that the petitioner failed to show due diligence and, therefore, the amendment is hit by proviso to Rule 17 of Order VI of the Code.

4. Upon a query made by the Court as to what prevented the petitioner in obtaining the so called documents prior to framing issues, no justification is coming forth from the petitioner. That being so, merely on the ground that the petitioner received certain documents post commencement of trial, the amendment in the written statement could not be allowed particularly in absence of petitioner showing that despite due diligence, the documents could not have been obtained at any time earlier. There is, thus, no merit in the petition. The petition is dismissed *in limini*. No order as to costs.

(Anil L. Pansare, J.)