2026:BHC-AUG:179

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

137 WRIT PETITION NO. 1148 OF 2025

UNITED INDIA INSURANCE COMPANY LTD THROUGH ITS BRANCH MANAGER
VERSUS
SHAHAJI RAGHUJI JADHAV DIED THROUGH LRS ARCHANA NITIN CHAVAN ALIAS ARCHANA SHAHAJI JADHAV AND OTHERS
...
Mr. V. R. Mundada, Advocate for the Petitioner
Mr. Jay Veer h/f Mrs. Anjali Dube, Advocate for Respondent No.5..

CORAM : S. G. CHAPALGAONKAR, J.
DATE : 5th JANUARY, 2026

P.C. :-

1. This Writ Petition takes exception to the order dated 15.11.2024 passed by Civil Judge, Senior Division, Aurangabad below Exhibit 99 in Special Civil Suit No. 301 of 2017, whereby the Petitioner’s application seeking amendment of written statement came to be rejected.

2. The Petitioner is Defendant in Special Civil Suit No. 301 of 2017. The suit has been instituted for recovery of amount on the basis of insurance contract. The Respondent relied upon a copy of insurance policy, which came to be admitted in evidence as Exhibit 92. The Petitioner/Defendant filed written statement and denied the policy. However, during the course of evidence of Plaintiff/Respondent said

policy has been admitted in evidence.

3. At this stage, when matter was posted for defence evidence, Petitioner filed an application seeking amendment of written statement for purpose of incorporating terms and conditions of insurance policy (Exhibit 92) in pleading. The Trial Court refused to entertain said application, firstly on the ground that it was filed at a belated stage. Particularly after commencement of trial and no explanation is given for delay of more than seven years in seeking proposed amendment.

4. Mr. Mundada, learned Advocate appearing for Petitioner, would submit that once a insurance policy is admitted in evidence and given exhibit number, the amendment which is explanatory in nature could have been allowed without causing any demur.

5. Learned Advocate appearing for Respondent No.5 supports the impugned order.

6. Having considered submissions advanced, it can be observed that initially Petitioner denied very existence of insurance policy and only after commencement of trial the application seeking amendment has been filed. No explanation is given for not bringing proposed amendment prior to commencement of trial. In such case, the bar of proviso requiring due diligence under Order VI Rule 17 of the Code of Civil

Procedure would get attracted.

7. The Trial Court has rightly observed that insurance policy has been already admitted in evidence and given Exhibit 92. As such it can be read as a whole document at the time of final hearing. In that view of matter, it is possible for parties to argue on terms and conditions of insurance policy. If so advised Petitioner-insurance company can place on record complete set of certified copy of policy including its terms and conditions.

8. In that view of matter, there is reason to cause interference in impugned order, hence Writ Petition stands rejected with liberty in favour of Petitioner to file complete set of policy document.

(S. G. CHAPALGAONKAR, J.)

ssp