

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8503 OF 2015

1. Dagadu S/o. Babu Talekar
Age: 71 years, Occu: Agril,
R/o. Panodi, Tq. Sangamner,
District : Ahmednagar.
2. Sakhubai Nana Thosar,
Age: 69 years, Occu: Household,
R/o. Manoli, Tq. Sangamner,
District : Ahmednagar.
3. Lahanbai Gangadhar Nalkar,
Age: 67 years, Occu: Household,
R/o. Deogaon, Tq. Sangamner,
District : Ahmednagar.
4. Bhimabai Karbhari Kakad,
Age: 65 years, Occu: Household,
R/o. Jorve, Tq. Sangamner,
District : Ahmednagar.
5. Satyabhama Patilba Dighe,
Age: 63 years, Occu: Household,
R/o. Ashvi (Kh.), Tq. Sangamner,
District : Ahmednagar.

.... **Petitioners**
(Original Plaintiffs)

Versus

1. Panodi Vividh Karyakari Seva,
Sahakari Society, Panodi, Tq. Sangamner,
District – Ahmednagar,
Through its Secretary / Chairman.
2. Village Panchayat Panodi,
Tq. Sangamner, Dist. Ahmednagar,
Through its Gramsevak.

3. Village Panchayat Panodi,
Tq. Sangamner, Dist. Ahmednagar,
Through its Sarpanch.
4. Deputy Superintendent of Land Record,
Sangamner, Tq. Sangamner,
District : Ahmednagar.
5. District Superintendent of Land Record,
Ahmednagar,
District – Ahmednagar.
6. The State of Maharashtra,
Through District Collector,
Ahmednagar.

... Respondents
(Original Defendants)

Appearance :

Mr. A. N. Nagargoje, Advocate for the Petitioners
Mr. I. S. Thorat, Advocate for Respondent No.1
Mr. A. A. A. Khan, AGP for Respondent Nos.4 to 6

CORAM : NEERAJ P. DHOTE, J.

DATE : 12th August, 2025

FINAL ORDER :

1. By the present Writ Petition under Article 226 of the Constitution of India, the Petitioners, who are the Original Plaintiffs in Regular Civil Suit [RCS] No.1026/2013, pending before the learned Joint Civil Judge, Senior Division, Sangamner [hereinafter referred to as ‘the learned Trial Court’], have challenged the order dated 08/11/2014, passed by the learned Trial Court, rejecting the Application filed under Order VI Rule 17 of the Code of Civil Procedure, 1908 [hereinafter referred to as ‘C.P.C.’] for amendment in the Plaint.

2. Heard the learned Advocate for the Petitioners, learned Advocate for the contesting Respondent No.1 and the learned AGP for Respondent Nos.4 to 6. None appeared for Respondent Nos.2 and 3 – Village Panchayat.

3. It is submitted by the learned Advocate for the Petitioners that, the Civil Suit, which was filed under Section 34 of the Specific Relief Act, 1963, was for the declaration of ownership and perpetual injunction in respect of the suit property, situated in Village – Panodi, Taluka - Sangamner, District – Ahmednagar. As the new property number was wrongly typed as ‘181’ instead of ‘182’, an Application below Exhibit – 51 was filed by the Petitioners for amendment in the Plaint. The said Application was contested by Respondent No.1 and the learned Trial Court rejected the said Application by holding that, the nature of suit would completely change and would create complications in the matter. He further submits that, it was a typographical error while putting the new number of the suit property and the amendment will not change the nature of suit. He submits that, the impugned order be set aside and the Writ Petition be allowed.

4. It is submitted by the learned Advocate for Respondent No.1 that, the suit was presented on 19/12/2013, the Written Statement was filed by Respondent No.1 on 26/03/2014 and, thereafter, the issues were framed in 2014 and the Application for amendment was made five [5] months after the issues were framed. He submits that, since the trial in the suit commenced prior to filing the Application for amendment, the learned Trial Court has rightly

rejected the Application for amendment. He submits that, in case, this Court allows the Writ Petition, costs be imposed on the Petitioners and an opportunity be given to Respondent No.1 to file an additional Written Statement pursuant to the amendment.

5. It is submitted by the learned AGP appearing for the State and its instrumentality that, the other Respondents are the contesting parties and he has nothing to say.

6. The amendment to the proceedings is regulated by the provisions of Order VI Rule 17 of C.P.C., which reads as under :

“17. Amendment of pleadings. - The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties :

Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.”

7. In **Dinesh Goyal @ Pappu Vs. Suman Agarwal [Bindal] and Ors.**, arising out of Special Leave Petition [Civil] No.30324/2019 dated September 24, 2024 [Non-Reportable], the Hon’ble Supreme Court of India, while dealing with the law relating to the amendment of pleadings, observed as follows :

“11. At this juncture, before proceeding to the merits of the case, let us consider the law relating to the amendments of pleadings.

11.1. The settled Rule is that the Courts should adopt a liberal approach in granting leave to amend pleadings, however, the same cannot be in contravention of the

statutory boundaries placed on such power. In ***North Eastern Railway Administration, Gorakhpur v. Bhagwan Das ; (2008) 8 SCC 511***, it was held as under:

“16. Insofar as the principles which govern the question of granting or disallowing amendments Under Order 6 Rule 17 Code of Civil Procedure (as it stood at the relevant time) are concerned, these are also well settled. Order 6 Rule 17 Code of Civil Procedure postulates amendment of pleadings at any stage of the proceedings. In ***Pirgonda Hongonda Patil v. Kalgonda Shidgonda Patil; [AIR 1957 SC 363]*** which still holds the field, it was held that all amendments ought to be allowed which satisfy the two conditions: (a) of not working injustice to the other side, and (b) of being necessary for the purpose of determining the real questions in controversy between the parties. Amendments should be refused only where the other party cannot be placed in the same position as if the pleading had been originally correct, but the amendment would cause him an injury which could not be compensated in costs. [Also see *Gajanan Jaikishan Joshi v. Prabhakar Mohanlal Kalwar* (1990) 1 SCC 166.]”

11.2 Over the years, through numerous judicial precedents certain factors have been outlined for the application of Order VI Rule 17. Recently, this Court in ***Life Insurance Corporation of India v. Sanjeev Builders Pvt. Ltd. and Anr.; 2022 SCC OnLine SC 1128***, after considering numerous precedents in regard to the amendment of pleadings, culled out certain principles :

- (i) All amendments are to be allowed which are necessary for determining the real question in controversy provided it does not cause injustice or prejudice to the other side. This is mandatory, as is apparent from the use of the word "shall", in the latter part of Order VI Rule 17 of the Code of Civil Procedure.
- (ii) In the following scenario such applications should be ordinarily allowed if the amendment is for effective and proper adjudication of the controversy between the parties to avoid multiplicity of proceedings, provided it does not result in injustice to the other side.
- (iii) Amendments, while generally should be allowed, the same should be disallowed if -

(a) By the amendment, the parties seeking amendment does not seek to withdraw any clear admission made by the party which confers a right on the other side.

(b) The amendment does not raise a time-barred claim, resulting in the divesting of the other side of a valuable accrued right (in certain situations)

(c) The amendment completely changes the nature of the suit;

(d) The prayer for amendment is *malafide*,

(e) By the amendment, the other side should not lose a valid defence.

(iv) Some general principles to be kept in mind are -

(I) The court should avoid a hyper-technical approach; ordinarily be liberal, especially when the opposite party can be compensated by costs.

(II) Amendment may be justifiably allowed where it is intended to rectify the absence of material particulars in the plaint or introduce an additional or a new approach.

(III) The amendment should not change the cause of action, so as to set up an entirely new case, foreign to the case set up in the plaint.

8. Perused the papers on record. A copy of the Application for amendment is at Exhibit – C, Page No.39 of the Writ Petition. It is stated in the Application that, due to inadvertence, there was a typographical error in typing the new number of the suit property as ‘181’ instead of ‘182’ and prayer is made to allow the Application. The learned Advocate for Respondent No.1 tenders across the bar the copy of Say given by Respondent No.1 to the said Application. The same is taken on record. As per the Say, the Application was objected on the ground that, the amendment if allowed, would

substantially change the nature of suit and, therefore, it may be rejected. The suit property as described in the Plaint is referred as Old Grampanchayat No.161 – New Grampanchayat No.181 of Grampanchayat Panodi City Survey No.237

The suit property is stated to be bounded as follows :

Towards East – Road ;
 Towards South – Road ;
 Towards West – City Survey No. 246 ;
 Towards North – City Survey No.238 ;

9. In the Written Statements filed by Respondent No.1 and Respondent Nos.2 and 3, the copies of which are brought on record, show that, new Grampanchayat property number is mentioned as 182 [Old No.161]. The city survey number is mentioned as the same in the Written Statements i.e. 237. This shows that, in the Written Statements, the new number of suit property is mentioned as 182, which the Petitioners want to correct in the Plaint from 181 to 182. This clearly go to indicate that, there is no dispute in respect of identification or the new number of the suit property.

10. The learned Trial Court has not rejected the amendment Application either on the ground of delay / limitation or on the ground that, the Application is moved after the commencement of trial. The learned Trial Court observed that, the proposed amendment would substantially change the nature of suit and it would create complications in the matter. When there is no quarrel in respect of new property number of the suit property, between the

parties and according to the Plaintiffs, it was a typographical error while mentioning the new property number, the reason given by the learned Trial Court while rejecting the Application is liable to be interfered with, as the impugned order is found not in accordance with the principles of law governing the field of amendment in pleadings. Hence, the following order:

ORDER

- [I] The Writ Petition is allowed.
- [II] The impugned order dated 08/11/2014, passed by the learned Trial Court below Exhibit – 51, in Regular Civil Suit No.1026/2013, is hereby quashed and set aside.
- [III] The amendment Application filed below Exhibit – 51 in Regular Civil Suit No.1026/2013 is allowed.
- [IV] The amendment be carried out within a period of two [2] weeks from today.
- [V] The Defendants would be at liberty to file the additional Written Statements, if need be so.
- [VI] No order as to costs.
- [VII] Writ Petition stands disposed off accordingly.

[NEERAJ P. DHOTE, J.]

Sameer/August-2025