



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

6 WRIT PETITION NO. 8414 OF 2025

Santoshi Alias Pallavi Shivraj Deshmukh And Others

VERSUS

Shivraj Bhagwanthrao Deshmukh And Others

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Advocate for Petitioners : Mr. A.A. Joshi h/f Mr. S.V. Natu

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : July 16, 2025

PER COURT :-

1. Petitioners impugn the order dated 24.3.2025 passed by the learned Civil Judge S.D., Nanded below Exhibit 867 in Special Civil Suit No.16 of 2023 to the extent of rejecting his application seeking amendment to insert the relief of perpetual injunction.

2. Learned advocate appearing for the petitioners/original plaintiffs submits that petitioners have filed a suit for partition and separate possession of the suit properties, wherein, declaration was sought that sale-deed of the suit lands S.No.597 and 598, gift deed of S.No.597 to the extent of 8 acres and sale-deed of sr.no.204 of 1999, is ineffective, null and void and not binding upon the rights of the plaintiffs.

3. During pendency of the suit, plaintiffs filed an application seeking amendment of plaint below exhibit 867. Learned Trial Court partially allowed said application except insertion of prayer of perpetual injunction. According to Mr. Joshi, aforesaid prayer was necessary in view of amended part of the plaint. Perusal of the impugned order shows that, learned Trial Court observed that third part of the amendment regarding relief of injunction is already on record and, therefore, same prayer need not be further allowed by way of amendment.

4. Having considered submissions advanced, it can be observed that while filing the suit, prayer clause no.”e” is already inserted in the pleadings, which states as under :-

“e”. That, the defendants may be restrained from making any sort of further transfer of suit properties to anybody by issue of perpetual injunction order from this Hon’ble Court.

5. The application for amendment shows that petitioner wanted to insert following part :-

“(iv). That, in claim clause it may kindly be added
“That perpetual injunction may kindly be granted against defendant nos.2/1 to 2/3 L.Rs. of original defendant no.2 not to create any third party interest by misusing nominal and void sale-deed bearing No.204/99 dated 8.4.1999, H.No.6-144

(old) mentioned in claim clause “B”, as same transaction is void-ab-initio.”

6. Perusal of prayer clause ‘e’ in original plaint with the proposed prayer clause no.(iv) in the amendment application would suggest that, proposed amendment is merely elaboration of the prayer clause ‘e’, which is part of original pleading in plaint. Therefore, learned Trial Judge is justified in observing that it would be a repeated prayer for one and the same purpose.

7. In that view of the matter, the view taken by learned Trial Judge cannot be faulted with. Hence, no jurisdictional error on part of Trial Court is made out in this writ petition, hence, it is **rejected**.

(S. G. CHAPALGAONKAR)
Judge

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