



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**WRIT PETITION NO. 9823 OF 2023**

MOHAN BHUJANGA KALE SINCE DECEASED THROU LRS  
SITARAM MOHAN KALE AND OTHERS

VERSUS

MACCHINDRA ASRAJI KALE DECEASED THROUGH LRS  
BABASAHEB ACCHINDRA KALE AND OTHER

...

Mr. Chandrakant K. Shinde, Advocate for the Petitioners.

Mr. Sachin S. Kotkar, Advocate for Respondent Nos.1(a) to (d) and  
2(a) to (e).

Mr. V. V. Tarde, Advocate for Respondent Nos.3, 5(a) to (e).

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**CORAM : S. G. CHAPALGAONKAR, J.  
DATED : 18<sup>th</sup> JUNE, 2025.**

**P.C.:-**

1. Heard learned Advocates appearing for respective parties.
2. Mr. Shinde, learned Advocate appearing for petitioners by inviting attention of this Court to provisions of Order VI Rule 16 of the Code of Civil Procedure submits that impugned order is passed invoking said provision and direction is given to throw out written statement at Exhibit-13 and permission is granted to defendant nos.2, 4(a) to (e) to file additional written statement subject to payment of cost.
3. Mr. Shinde further submits that power under Order VI Rule 16 can be exercised only where unnecessary, scandalous, frivolous or vexatious statements are made in pleading or where pleading is said to be prejudice, embarrass or delay the fair trial or such

pleading is abuse of process of Court. He submits that in present case defendant nos.2, 4(a) to (e) wish to withdraw admission given in written statement and incorporate additional pleadings contrary to their earlier version. In that case, provisions of Order VI Rule 16 could not have been invoked.

4. The learned Advocate appearing for respondent nos.3, 5(a) to (e) [original defendant nos.2 and 4(a) to (e)] do not dispute aforesaid legal position. However, contends that defendants can definitely amend written statement and offer explanation as to pleadings, which has been wrongly or fraudulently brought on record through written statement. He, therefore, submits that defendants may be granted leave to file appropriate application in this regard and permission to not to press application filed below Exhibit-256.

5. Considering submissions advanced, following order is passed:

**ORDER**

a. The application filed below Exhibit-256 shall be treated as not pressed. Eventual order dated 01.07.2023 is declared as non-est.

b. The defendant nos.2, 4(a) to (e) are at liberty to file fresh application with appropriate prayers for amendment in written

statement. If such application is filed, Trial Court shall consider the same in accordance with law.

c. Writ Petition stands disposed of.

**(S. G. CHAPALGAONKAR)**  
**JUDGE**

Devendra/June-2025