



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

WRIT PETITION NO. 13258 OF 2019

**SAMADHAN BHADU SURWADE
VERSUS
PREM RAMCHANDRA LAHORI AND OTHERS**

...
Mr. Anand P. Bhandari, Advocate for the Petitioner.
Mr. Pramod S. Gaikwad, Advocate for Respondent No.1.

...

**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 17th JULY, 2025.**

P.C.:-

1. Heard learned Advocates appearing for respective parties.
2. The order granting application under Order VI Rule 17 of Code of Civil Procedure, thereby permitting plaintiff to carry amendment in plaint is subjected to challenge in this petition.
3. Mr. Bhandari, learned Advocate appearing for petitioner invites attention of this Court to impugned order and submits that order is unreasoned. There is no consideration to the contents of proposed amendment. Although order observes that proposed amendment is based on subsequent events, such observations are not in tune with text of proposed amendment. He would further submit that impugned order is passed without hearing petitioner/defendant.

4. Per contra, Mr. Gaikwad, learned Advocate appearing for respondents on the basis of affidavit-in-reply submits that facts revealed after cross-examination. An amendment application was filed to bring those facts on record, which are necessary to final adjudication to dispute in suit.

5. Having considered submissions advanced and perusal of impugned order, it can be observed that it has been passed in absence of defendants. Secondly, only reason employed for allowing amendment is that it is based on subsequent events. However, perusal of application would show that amendment is pertaining to events prior to institution of suit. By way of amendment, cancellation of sale deed dated 01.07.2009, which is executed atleast three years prior to institution of suit is sought to be brought on record.

6. It is not disputed before this Court that application for amendment was tendered after commencement of trial. In this view of the matter, effect of riders under Order VI Rule 17 of the Code of Civil Procedure were required to be taken into account. In that view of the matter, this Court deems it fit to quash and set aside impugned order and relegate parties to argue application afresh and make learned Trial Court to pass fresh order after

considering rival contentions and by recording elaborate reasons.

In result, following order is passed:

ORDER

- a. Writ Petition is partly allowed.
- b. The impugned order dated 27.09.2019 passed below Exhibit-100 in special Civil Suit No.125/2012, is hereby quashed and set aside.
- c. The application below Exhibit-100 is restored to its original position. The petitioner shall be entitled to file appropriate reply to application Exhibit-100 within period of three weeks from today and after considering rival contentions, Trial Court to pass fresh order.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/July-2025