



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

919 WRIT PETITION NO. 13616 OF 2025

MADHAV WAGHAJI KOLI GOJEWAD AND ANOTHER

VERSUS

HAMIDKHAN GULABKHAN PATHAN AND ANOTHER

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Advocate for the Petitioners : Mr. Rodge Krishna Pratap

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CORAM : ARUN R. PEDNEKER, J.

DATE : 14.11.2025

PER COURT:

1. Heard.

2. The petitioners challenges the order dated 09.09.2025 passed by the trial court at Exhibit-56 in R.C.S. No.572/2019 allowing the amendment to the plaint.

3. The learned counsel for the petitioners submits that the matter is fixed for evidence and in terms of the proviso to Order VI Rule 17 of the CPC after the commencement of the trial, ordinarily the amendment should not be allowed unless it is shown that the plaintiff is diligent.

4. The trial court has allowed the amendment application as the amendment relates to subsequent events. Originally the suit is filed for declaration of ownership. However, in the amendment

application it is contended that there was an attempt made by the defendant to encroach upon certain portion of the suit land and, as such, amendment application is made with further prayers. Such a fact is brought on record and further prayers are made to demarcate the boundaries of the properties. The plaintiffs and the defendants are the adjacent land owners.

5. Considering that the events which are brought on record are subsequent to the filing of the plaint, it cannot be said that the amendment would be hit by the proviso to Order VI Rule 17 of the CPC. The petitioners / defendants will have all the opportunity to defend the amended pleadings by filing appropriate amendment to written statement.

6. The Writ Petition stands accordingly disposed of.

[ARUN R. PEDNEKER, J.]

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