



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

951 WRIT PETITION NO. 14646 OF 2025

**THE MARATHWADA SHIKSHAN PRASARK MANDAL AND
ANOTHER**

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for the Petitioners : Mr. Vaidya Ameet Raveendra

AGP for Respondent/State: Mr. S. K. Shrise

...

CORAM : ARUN R. PEDNEKER, J.

DATE : 05.12.2025

PER COURT:

1. Heard.
2. Petitioners challenge order dated 29.10.2025, at Exhibit-129, whereby the amendment to the plaint is allowed.
3. The learned counsel for the petitioners submits that the amendment is allowed and rights have created in favour of the petitioners and the encroachment which is sought to be now removed was within the knowledge of the plaintiff right from the time of filing of the suit and that the amendment would be clearly barred by the limitation.
4. While allowing the amendment, the court has noticed that the issues are framed in the suit. However, evidence is not yet commenced.
5. Considering this aspect of the matter, so also, it is the contention of the plaintiff that encroachment in the suit property has increased, as such, the prayer is made for removal of the same. During the pendency of the proceedings the amendment

application is allowed so as to avoid multiplicity of the proceedings.

6. The learned counsel for the petitioners submits that the same is barred by the limitation.

However, limitation being mixed question of fact and law in this case it would be the matter of evidence before the trial court. The petitioners will be able to file an amended written statement raising all his contentions of defense and the same would be considered after recording evidence. As such, the apprehension of the petitioners can be taken care by the trial court at the relevant stage.

7. In view of the same, I see no reason to interfere in the impugned order, whereby the amendment is allowed to avoid multiplicity of the proceedings and the evidence in the matter is yet to commence, the amendment can be liberally allowed at this stage. All objections of the petitioners are kept open to be raised at appropriate stage.

8. The Writ Petition stands disposed of with above observations.

[ARUN R. PEDNEKER, J.]

marathe