

Arun Sankpal

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3454 OF 2025

Vitthal Pandharinath Bagal Through P.A. Holder, ..Petitioner
M.P. Bagal
Versus
Sanjay Vitthal Pawar & Ors ...Respondents

WITH
INTERIM APPLICATION NO. 3491 OF 2025
IN
WRIT PETITION NO. 3454 OF 2025

Vitthal Pandharinath Bagal Through P.A. Holder, ..Applicant
M.P. Bagal
Versus
Sanjay Vitthal Pawar & Ors ...Respondents

Mr. Rajesh Tekale, for the Petitioner in WP/3454/2025 and for the
Applicant in IA/3491/2025.
Ms. Manisha Devkar, with Siddhi Patil, i/b Shankar Katkar, for
Respondent No.1.

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CORAM: N. J. JAMADAR, J.
DATED : 10th MARCH 2025

P.C.:

1. Heard learned Counsel for the petitioner.
2. The challenge in this Petition is to an order dated 15th February 2025, whereby the learned Civil Judge, Junior Division, Pandharpur,

allowed an application for amendment in Plaint thereby permitting the plaintiff to correct the description of the suit property.

3. The learned Counsel for the petitioner submitted that the endeavour of the plaintiff to amend the Plaint was actuated by a design to wriggle out of a situation post-rejection of the application for interim injunction as the Court has recorded a finding that the plaintiff failed to *prima facie* establish the identity of the property. It was further submitted that the petitioner had filed Written Statement and Counter Claim in the Suit. In the Written Statement to the Counter Claim the plaintiff had asserted the very description of the property which is given in the Plaint. Therefore, by the proposed amendment, the plaintiff intends to withdraw the said admission.

4. The application for amendment of the Plaint was evidently preferred at a pre-trial stage. By the proposed amendment the plaintiff intended to correct the description of the suit property and the boundaries thereof. The proposed amendment is not of such nature that it would either change the nature or character of the Suit. It is trite, all the amendments which are necessary for the determination of real question in controversy between the parties and which do not have the potentiality of irretrievable prejudice to the defendant, are required to be allowed.

5. So far as the submission on behalf of the petitioner that the proposed amendment is actuated by a design to wriggle out of the admission, it is necessary to note that the pleadings in the Written Statement to the Counter Claim were in line with the pleadings in the Plaint. Moreover, it is also well-settled that an admission is not conclusive and can be explained, shown to be incorrect or even withdrawn.

6. In the case at hand since the plaint proceeded on the premise of incorrect description of the property and the said mistake was sought to be corrected by the amended description of the property, no prejudice will be caused to the defendants. All the questions in controversy can be decided at the trial.

7. Hence, the impugned order does not warrant interference by this Court in exercise of supervisory jurisdiction.

8. Petition stands dismissed.

9. In view of the disposal of the Petition, the Interim Application also stands disposed of.

[N. J. JAMADAR, J.]