

VRJ

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.11138 OF 2025

VAIBHAV
RAMESH
JADHAV

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Arvind Atmaram Satpute

... Petitioner

V/s.

Aba Bhau Pukale & Ors.

... Respondents

Mr. Santosh Punalkar i/by Mr. Laxman K. Kalel for the petitioner.

Ms. Neha G. Deshpande i/by Mr. Ajay A. Joshi for respondent Nos.1 to 4.

CORAM : S. G. CHAPALGAONKAR, J.

DATED : DECEMBER 9, 2025

P.C.:

1. Heard learned advocate appearing for petitioner.
2. The petitioner is original defendant in Regular Civil Suit No.60 of 2012 pending before Civil Judge, Junior Division, Atpadi. Initially, suit was filed seeking a decree of perpetual injunction in respect of suit property. Later on, plaintiff filed an application seeking amendment to add prayer seeking declaration of ownership. Plaintiff, in his amendment application filed below Exhibit 103, asserts that in view of declaration of law by Hon'ble

Supreme Court of India in case of *Eknath Nivrutti Hegadkar v. Aagatrao Dyanu Ghodake* as well as *Anatula Sudhakar v. P. Burchi Reddi*, it is necessary to seek a relief of declaration when there is cloud of doubt as regards to title of the plaintiff. The plaintiff asserts that in light of aforesaid legal position, it is necessary to include a prayer for declaration. The Trial Court, after considering law laid down in aforesaid judgments, observed that aforesaid relief would be necessary to finally adjudicate dispute between parties and give final adjudication of controversy. Accordingly, the application was allowed.

3. Learned advocate appearing for petitioner raises twofold submissions: firstly, according to him, application for amendment is made after a period of 13 years from filing of suit and there is no explanation for inordinate delay. Secondly, proposed amendment would change nature of the suit.

4. Having considered the submissions advanced, it can be observed that when plaintiff has filed a suit seeking relief of perpetual injunction and defendant, by filing written statement, has raised issues challenging the title of plaintiff, it would be incumbent upon the plaintiff to seek a relief of declaration of

ownership. In the present case, plaintiff is seeking exactly same amendment which is required for an appropriate decision on rights of the parties. The second contention is that there is a delay in filing application for amendment. No doubt the application has been filed after lapse of 13 years; however, it is prior to commencement of trial. Proviso to Order VI Rule 17 of Civil Procedure Code, 1908, would come into picture only when trial is commenced. In this case, since trial is not commenced, an amendment, as sought, can be allowed without reluctance.

5. In that view of the matter, view taken by the Trial Court cannot be disturbed in writ jurisdiction. In result, writ petition stands rejected and disposed of.

6. Pending interlocutory application(s), if any, stand disposed of.

(S. G. CHAPALGAONKAR, J.)