

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
WRIT PETITION NO.12222 OF 2025**

1. Sou. Rekha Rajesh Amberdekar
(Before marriage- Suvarna Shashikan Lavand)
Age: 33 Years, Occ.: Household,
A/p. Pishavi, Tal: Shahuwadi,
District: Kolhapur.
 2. Sou. Anita Satish Patil
(Before marriage - Anita Shashikant Lavand)
Age: 30 Years, Occ.: Household,
 3. Sou. Arpana Vijay Patil
(Before marriage – ArpanaShashikant Lavand)
Age: 30 Years, Occ.: Household,
Nos. 2 and 3 are residing at Zunjarwadi
Tal. Karad, Dist. Satara
- ... Petitioners
(Third Party Intervenors)

Versus

1. Shri. Jaywant. Aba Lavand
Age: 57 Occ.: Agriculturist,
 2. Sou. Alaka Sashikant Lavand
Age: 48 Occ.: Labour work,
 3. Shri. Sashikant Lakhu Lavand
 4. Shri. Lakhu Khasaba Lavand
Age: 87 Occ.: Agriculturist,
All are R/o. Nandalpur
Tal. Karad, Dist. Satara
- ..Respondents
(No.1/Org. Plaintiff and Decree Holder
No.2, 3 and 4 Org. Defendants and
Judgment Debtor)

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Mr. Prajakt Arjunwadkar, Advocate for Petitioners.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 19th NOVEMBER, 2025.**

FINAL ORDER:-

1. The petitioners impugns order dated 06.08.2025 passed by Civil Judge Senior Division, Karad below Exhibit-98 in Regular Darkhast

No.167/2014, thereby rejecting application for amendment filed by petitioners/third party.

2. The respondent no.1 filed Special Civil Suit No.63/2003 for possession of residential premises bearing Grampanchayat No.237/1 alongwith open space abutting to residential property. The suit has been decreed directing respondent nos.2, 3 and 4 to hand over vacant peaceful possession to respondent no.1. The Appeal filed by respondents before District Judge has been dismissed. The decree is confirmed by this Court in Second Appeal No.686/2013. The respondent no.1 filed Regular Darkhast No.167/2014 seeking execution of decree. The petitioners filed objection under Order XXI Rules 91, 97 and 101 of Code of Civil Procedure to execution of decree on the ground that suit property was joint family property of petitioners and respondent nos.2 and 3, which is part of Gut No.59. There was no division of property by mates and bounds. The Executing Court framed issues pursuance to objection filed by petitioners. When matter was posted for recording evidence, petitioners filed application below Exhibit-98 seeking amendment in his application filed under Order XXI Rules 97 and 101 of Code of Civil Procedure. The Executing Court rejected application. Hence, this Writ Petition.

3. Mr. Prajakt Arjunwadkar, learned Advocate appearing for petitioners submits that Executing Court failed to appreciate law laid

down by Supreme Court in case of *Life Insurance Corporation of India Vs. Sanjeev Builders Private Limited*.¹ The petitioners want to bring on record certain amendments, which are necessary for adjudication of dispute between parties. He would, therefore, urge that there was no reason to refuse proposed amendment.

4. Having considered submissions advanced by learned Advocate appearing petitioners, it can be observed that respondents/decreed holders succeeded in litigation in suit and decree for possession has been passed in their favour in respect of suit house. The petitioners have filed application below Exhibit-53 under Order XXI Rule 97 of Code of Civil Procedure claiming that they are daughters of Judgment Debtor. The suit property bearing Grampanchayat No.237/1 is part of old Survey No.12 and present Gut No.59 and petitioners have right in property being joint owners. However, by way of application for amendment, it is sought to be contended that entire Gut No.59 shall be included in execution proceeding. Apparently, petitioners are trying to bring inconsistent pleading by way of amendment application that too after four years of filing objection below Exhibit-53. They want to expand scope beyond issue fall for determination. No justification for delay in bringing amendment application is given. The Executing Court has rightly observed that proposed amendment is an attempt to protract proceeding in execution.

¹ AIR 2022 SC 4256.

5. In that view of matter, no case is made out to cause interference under Article 227 of Constitution of India. In result, Writ Petition stands dismissed.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/November-2025