

Jvs.

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

WRIT PETITION NO. 24 OF 2017

JAYANT
VISHWANATH
SALUNKE

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JAYANT VISHWANATH
SALUNKE
Date: 2025.07.24
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Surajkhan Babaso Rohile

} **Petitioner**

versus

Shahaji Rau Kamble & Ors.

} **Respondents**

Mr. Rahul S. Kulkarni for petitioner.

Mr. Vijay Killedar for respondents 5 to 7.

Mr. S. P. Kamble, AGP for respondent no. 8.

CORAM: ALOK ARADHE, CJ.

DATE: JULY 24, 2025

ORAL ORDER:

1. In this petition under Article 227 of the Constitution of India, the petitioner has assailed the validity of the order dated 27th July 2016 passed by the Trial Court, by which the application seeking amendment of the plaint has been rejected on the ground that it is belated.

2. Facts giving rise to filing of the writ petition, briefly stated, are that the petitioner/plaintiff had instituted a Special Civil Suit No. 16 of 2010 seeking relief of specific performance of the agreement dated 14th August 2009. During the pendency of the suit, on account of breach of terms and conditions by the defendants, the land was resumed by the Collector. Thereupon, the petitioner filed an application seeking impleadment of the Collector. The said application was allowed by an order dated

27th October 2014. Thereafter, the petitioner filed an application seeking amendment of the plaint, by which the fact of resumption of the land by the Collector was sought to be brought on record. The said application has been rejected on the ground that the same is belated. Hence this petition.

3. Learned counsel for the petitioner submits that the Trial Court ought to have appreciated that the proposed amendment was based on subsequent events and was necessary for fair decision of the suit. It is further submitted that the Collector was impleaded in the suit as Defendant No. 8 on 27th October 2014 and thereafter, with a view to bring the factum of resumption of the land in question on record, the application for amendment was filed.

4. On the other hand, learned counsel for the respondents submits that no interference is required with the impugned order in this petition as the Collector was impleaded on 27th October 2014 and the application for amendment was filed after a period of one year. It is submitted that the Trial Court has assigned valid and cogent reasons for rejecting the application.

5. I have considered the rival submissions and perused the record.

6. The land has been resumed by the Collector during the pendency of the suit. The aforesaid fact has material bearing on the controversy involved in the suit. The Trial Court ought to have appreciated that the same was necessary for fair and complete adjudication of the suit. Undoubtedly, the application for amendment has been filed with delay, however, the respondents could have been compensated in terms of the

costs. It is trite law that the application for amendment cannot be rejected on the ground of delay alone.

7. The impugned order, therefore, suffers from error apparent on the face of the record. It is quashed and set aside. The application for amendment of the plaint is allowed subject to payment of costs of Rs.15,000/- to be paid to respondents 5 to 7.

8. Accordingly, the writ petition is allowed.

9. Let a copy of this order be forwarded to the Trial Court forthwith.

(CHIEF JUSTICE)