



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH, NAGPUR.**

**WRIT PETITION NO.5744 OF 2023**

**PETITIONER** :- Satish Tarachand Godhe, aged about 66 years, Occ: Business, R/o. Civil Lines, Khamgaon, Tq. Khamgaon, Dist. Buldhana

*...Original Plaintiff No.1*

**..VERSUS..**

**RESPONDENTS** :- 1 Municipal Council, Khamgaon,  
Through its Chief Officer,  
2 Ganesh Jagannath Choukse, aged about 59 years, Occ: Business R/o. Near Vasant Wadi, Khamgaon, Tq. Khamgaon, Dist. Buldhana

*...Original Defendants*

3 Bhailal Pralhad Joshi  
Aged about 42 years, Occ: Trader  
R/o In front of Central Bank of India,  
Main Road, Khamgaon Buldhana

*...Original Plaintiff No.2*

Amended as per order dated 13.1.25.

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Mr. H. R. Gadhia, Advocate for Petitioner.  
Mr. A. S. Deshpande, Advocate for the Respondent No.2  
Ms. Ruchi Agrawal, Advocate h/f Mr. N. S. Jadhav, Advocate for respondent Nos.1

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**CORAM** : **ROHIT W. JOSHI, J.**

**DATE** : **12.11.2025**

**ORAL JUDGMENT :**

1) **Rule.** Rule is made returnable forthwith. Heard finally with consent of learned counsel for the respective parties.

2) The present petitioner had filed a suit against the present respondents seeking decree for perpetual injunction, restraining them from demolishing the structure standing on the suit property pursuant to notice for demolition issued by respondent No.1. While the civil suit was pending, respondent no.1 has demolished the structure.

3) In view of the above, the petitioners/plaintiffs filed application for amendment of plaint vide Exh.125 seeking to bring on record subsequent events and also incorporate additional prayers for perpetual injunction restraining the defendants from constructing shopping complex over the land in question and to transfer rights over the same in favour of any third person and also mandatory injunction to construct a shop having similar area over the land and handover the same to the plaintiff/petitioner No.1. The

learned Trial Court has rejected the said application, holding that a new cause of action was sought to be introduced which would alter the nature of the suit.

4) The learned Advocate for the petitioner has placed reliance on the judgment of the Hon'ble Supreme Court in the matter of *Ragu Thilak D. John...Vs...S. Rayappan and ors*, reported in *(2001) 2 SCC 472*, to contend that when subsequent developments occur in a suit amendments seeking fresh reliefs can be allowed. In the matter before the Hon'ble Supreme Court, a suit was filed for perpetual injunction seeking orders against demolition of compound wall, which was demolished while the suit was pending. The plaintiffs sought to amend the suit in order to bring on record the said fact and incorporate certain prayers including prayer for recovery of damages. The Hon'ble Supreme Court has held that such amendment ought to have been allowed in order to avoid multiplicity of litigation.

5) In view of the judgment of the Hon'ble Supreme Court, although, the learned Advocate for the respondents strongly opposed the petition, in my considered opinion, the

petition deserves to be allowed.

6) The suit was initially filed for seeking relief of perpetual injunction. Since the demolition is carried out during pendency of the civil suit, the plaintiff is entitled to seek restitution of the property which is demolished, pending the civil suit.

7) In view of the above, order dated 28.02.2023 passed by the learned Joint Civil Judge, Junior Division, Khamgaon, Buldhana on application at Exh.125 in Regular Civil Suit No.24 of 2007 is quashed and set aside and application for amendment of plaint filed vide Exh.125 in the said suit is allowed.

(ROHIT W. JOSHI, J.)

*Tanmay..*