



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Writ Petition No.5124/2025

Sau. Rukhmabai w/o Vitthalrao Bhakre,
Aged about 86 years, Occ.-Household, through power of attorney
Shri Ashok s/o Vitthalrao Bhakare,
Aged about 58 years, Occ.-Business, R/o.-Vitthal Mandir Ward,
Chandrapur, Tah. and Distt. Chandrapur.

.... Petitioner.

Versus

1. Rajesh s/o Dayabhai Patel,
Aged about 45 years, Occ.-Tax Practitioner & Business,
R/o.-Gol Bazar, Chandrapur.

(Ori. Defendants)

2. Suhas s/o Shankarrao Gogulwar,
Aged about 38 years, Occ.-Business, R/o Tukum,
Chandrapur, Tah. & Distt. Chandrapur.

.... Respondents.

Mrs. Shilpa Giratkar, Advocate for petitioner.
Mr. A. Ananthakrushnan, Advocate for resp. nos.1 and 2.

CORAM : PRAFULLA S. KHUBALKAR, J.
DATE : 04-12-2025.

Oral Judgment

Rule. Rule made returnable forthwith. Heard finally by consent of the parties.

2. By this petition, the petitioner has challenged order dated 25-02-2025 passed by the trial Court, rejecting the application Exhibit-48 for amendment of plaint and also order dated 29-07-2025, rejecting her application for review of the said order.

3. A perusal of impugned order shows that the trial Court has rejected the amendment application at Exhibit-48 by primarily observing that the application is filed after a period of nine years after the suit was filed and at the stage when the evidence on affidavit was filed by the plaintiff.

4. Learned Counsel for the petitioner/plaintiff submits that the application for amendment is filed to correct the date mentioned in paragraph 3 of the plaint and to incorporate paragraph 5(A) to the plaint, which is necessary for bringing on record the factual circumstances. She submitted that by way of proposed amendment the plaintiff does not intend to change the nature of the suit or introduce any new prayer clause.

5. *Per contra*, Mr. Ananthakrushnan, learned Counsel for the respondents, opposed the petition and submitted that the amendment application is filed after a period of nine years after the suit was filed and the reasons mentioned in the application for amendment do not explain the delay. He submitted that the defendants have already filed their written statement and the amendment if allowed would cause hardship to the defendants.

6. While considering the controversy it has to be seen that the plaintiff has proposed to amend the plaint by mentioning certain factual aspects and by seeking correction of date in paragraph 3 of the plaint. The proposed amendment does not amount to change in the nature of the suit or introducing a new relief in the suit. In view of the controversy involved in the suit seeking declaration and mandatory injunction with respect to the two flats in question, the amendment appears to be necessary for complete and effective adjudication of the controversy involved in the suit. Although amendment application is filed after a period of nine years after the suit was filed, it needs to be allowed in the

interest of justice by appropriately compensating the defendants. Hence, the following order is passed :-

(a) Order dated 25-02-2025 passed by the trial Court on application at Exhibit-48 is quashed and set aside. As a result the order dated 29-07-2025 passed on application at Exhibit-49 may not be given effect.

(b) Application for amendment filed by the plaintiff at Exhibit-48 in Regular Civil Suit No.67/2015 is allowed, subject to costs of Rs. 5000/- to be paid by the plaintiff to the defendants within a period of four weeks from the date of uploading of this order.

7. Writ petition is accordingly allowed and disposed of.

8. Rule is made absolute in above terms. No costs.

(Prafulla S. Khubalkar, J.)