



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

**WRIT PETITION No. 1218/2024**

**PETITIONER** : Shri. Mahesh S/o Sachchanand Dewani,  
Aged about 54 years,  
Occupation : Business,  
R/o Shri Krishna Garments,  
Mahatma Phule Chowk, Amgaon  
Road, Fulchur, Gondia-441601

**Vs.**

**RESPONDENT** : Shri Deepak S/o Sachchanand Dewani,  
Aged about 51 years,  
Occupation : Business  
R/o Mahatma Phule Chowk, Amgaon  
Road, Fulchur, Gondia-441601

Mr. A.M. Chandekar, Advocate for Petitioner  
Mr. J.M. Gandhi, Advocate for Respondent

**WITH**  
**WRIT PETITION No. 1263/2024**

**PETITIONER** : Shri. Mahesh S/o Sachchanand Dewani,  
Aged about 54 years,  
Occupation : Business,  
R/o Shri Krishna Garments,  
Mahatma Phule Chowk, Amgaon  
Road, Fulchur, Gondia-441601

**Vs.**

**RESPONDENT** : Shri Deepak S/o Sachchanand Dewani,  
Aged about 51 years,  
Occupation : Business  
R/o Mahatma Phule Chowk, Amgaon  
Road, Fulchur, Gondia-441601

Mr. A.M. Chandekar, Advocate for Petitioner  
Mr. J.M. Gandhi, Advocate for Respondent

**CORAM: SACHIN S. DESHMUKH, J.**

**DATED : 21<sup>st</sup> AUGUST, 2025**

**JUDGMENT :**

1. Rule. Rule made returnable forthwith. Heard finally with the consent of the parties at the stage of admission.
2. The petitioner in both these petitions raises a challenge to the order rendered by the trial Court, allowing the application for amendment presented by the plaintiff under Order 6 Rule 17 of the Code of Civil Procedure in a suit for partition, separate possession and declaration of the share in the suit property. Coupled with the same, application for temporary injunction was also presented by the plaintiff. While presenting the written statement, a specific admission on behalf of the petitioner herein, is raised since the subject suit land stands in the name of proposed defendant as such would be necessary party. The petitioner herein has specifically stated that the suit deserves to be dismissed for non-joinder of the necessary party.
3. The trial Court while considering the fact that the subject matter of the property stands in the name of the proposed

defendant, as such, the proposed defendant would be necessary party and also considering the statement made by the petitioner, allowed the application, holding that no prejudice would be caused to the petitioner by allowing the proposed amendment.

4. Aggrieved by the same, the petitioner has presented this petition, stating that the proposed amendment suffers from delay and laches and resultantly it is submitted that the same is barred by law of limitation, therefore, the trial Court has grossly erred in allowing the application.

5. Per contra, the learned counsel for the respondent has supported the order submitting that the suit property admittedly stands in the name of the proposed defendant. Nevertheless, the admission on the part of the petitioner about the property stands in the name of the proposed defendant and suit would not be maintainable for want of impleadment is undisputed. In any case, no prejudice would cause to the petitioner by allowing such amendment.

6. Admittedly, proposed amendment sought is imperative for proper and effective adjudication of the case and does not cause prejudice to the petitioner. Rather, refusing amendment would lead to multiplicity of litigation. Equally the proposed amendment does not change the nature and character of the suit. These aspects are

taken into account by the trial Court in its proper perspective while experiencing the discretion allowing the application. In any case the trial Court while allowing application has adequately compensated petitioner by imposing the adequate cost. Resultantly, the order under challenge does not suffer from any illegality. As such no interference is warranted. Resultantly, the petitions stand dismissed. No order as to costs.

Rule is discharged.

**(SACHIN S. DESHMUKH, J.)**

*MP Deshpande*