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

WRIT PETITION NO. 6154 OF 2024

Sadhana Ashok Bachewar, Aged about 49 years,
Occ: Household, R/o Shikshak Colony, near Government
Hospital, Pusad, Tahsil Pusad, Dist: Yavatmal. PETITIONER

VERSUS

1. Shubhash Deoba Gaikwad, Aged about 56 years,
Occ. Service, R/o Narayanwadi, Near Mahadeo
Temple, Pusad, Tah. Pusad, District Yavatmal.

2. Prem Sheshrao Mote, Aged about 57 years,
Occ: Agriculturist.

3. Vasanta Sheshrao Mote, Aged 50 years, Occ: Agriculturist.

4. Deorao Sheshrao Mote, Aged 47 years, Occ: Agriculturist.

Nos.2 to 4 R/o Kopra (Bu) Post: Shelu (Bu), Tah. Pusad,
Distt. Yavatmal.

5. Sushil Dattarao Cheke, Aged 40, Occ: Police Constable,
R/o Police Station Digras, Tah. Digras, Dist. Yavatmal. RESPONDENTS

Shri C.J. Dhumane, counsel for the petitioner.
Smt. Anjana M. Raut-Narwade, counsel for the respondents.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : NOVEMBER 17, 2025

ORAL JUDGMENT

RULE. Rule is made returnable forthwith and heard finally with the consent of the learned counsel for the parties.

2. The petitioner has challenged the order dated 30.03.2024 passed by the trial Court rejecting the application for amendment of the plaint. The primary reason for rejection of the application for amendment is the stage at which the application is filed and the possibility about change in nature of the suit.

3. Petitioner is the original plaintiff who had filed the suit for permanent injunction against the respondents. The plaintiff also filed an application for temporary injunction which came to be allowed by order dated 08.02.2019. The order on temporary injunction application was challenged by the defendants *vide* Miscellaneous Civil Appeal no.4 of 2019 which came to be allowed by order dated 25.11.2019. In this background, it is alleged by the plaintiff that only because the appeal was allowed, the defendants made certain construction over the suit property and therefore the plaintiff was constrained to bring on record the subsequent events by way of application for amendment to the suit. Accordingly, the plaintiff filed application at Exhibit 66 under Order VI Rule 17 of the Code of Civil Procedure, 1908 to bring on record subsequent developments. The application was opposed by the defendants and it came to be rejected by order dated 30.03.2024. Feeling aggrieved by this order, the petitioner has filed the instant petition.

4. The short controversy involved in the instant petition is challenge to the order rejecting the application for amendment. The main reason for rejection of the amendment application is that the same was filed after evidence on affidavit was filed in the suit and the amendment is likely to change the nature of the suit. Pertinent to note, by way of amendment the plaintiff wants to bring on record the subsequent events occurred after miscellaneous civil appeal was allowed. It has to be seen that the suit is with respect to the property on which the defendants have allegedly made certain encroachments and construction and thus the events became relevant and material to decide the actual controversy involved in the suit. Although the suit was initially filed seeking injunction, however considering the subsequent

events it became necessary for the plaintiff to amend the plaint for complete adjudication of the controversy involved in the suit.

5. The main opposition raised by the counsel for the respondents to the petition is on account of the stage at which the application is filed. Although the issues are framed and the evidence on affidavit is filed in the suit, considering the nature of amendment based on developments which occurred in the suit, the plaintiff need not be deprived to bring on record all the relevant facts. It is settled position of law that amendments can be made at any stage of suit. Thus, since the amendment is necessary, it has to be allowed even at the stage when evidence on affidavit is filed. It is argued on behalf of the respondents that the proposed amendment changes the nature of the suit. Having regard to the controversy involved even though there is some change in nature of the suit, the amendment needs to be allowed to enable the Court to decide the controversy completely and to avoid multiplicity of proceedings. Considering the position of law clarified by the Hon'ble Supreme Court in ***Life Insurance Corporation of India Versus Sanjeev Builders Private Limited & Another*** [**(2022) 16 SCC 1**], I find the instant case to be a fit case in which the amendment of plaint needs to be allowed even at the stage when evidence on affidavit is filed.

6. In the facts of the case, considering the subsequent developments, the plaintiff needs to be allowed to amend the suit for effective and complete adjudication of the controversy. Since the application for amendment is submitted after evidence on affidavit is filed, considering the fact that the defendants will have to deal with new pleadings, they need to be compensated by awarding appropriate costs. Hence, the following order is passed:-

I. The writ petition is allowed.

II. The order dated 30.03.2024 passed by the trial Court on the application at Exhibit 66 in Regular Civil Suit no.111 of 2017 is quashed and set aside.

III. The application at Exhibit 66 filed by the plaintiff in Regular Civil Suit no.111 of 2017 seeking amendment of the plaint is allowed subject to costs of Rs.3,000/- to be paid by the plaintiff to the defendants within three weeks from the date of uploading of this judgment.

7. Rule is made absolute in aforesaid terms. The writ petition is disposed of.

(PRAFULLA S. KHUBALKAR, J.)

APTE

Signed by: Apte
Designation: PS To Honourable Judge
Date: 20/11/2025 10:20:16