



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

WRIT PETITION NO. 7321 OF 2024

Shamimbi Shaikh Faizal, a/a 51 years,
Occ: Household work, R/o Sailani Nagar, Chikhali,
Tq. Chikhali, Distt. Buldana.

PETITIONER

VERSUS

1. Shaikh Iftekar Shaikh Jabbar, a/a 52 years,
Occ: Cultivator and business.
 2. Babu Ansar Jamadar, a/a 30 years,
Occ: Cultivator and business.
 3. Shankar Mahadeo Mahakal, a/a 55 years,
Occ: Cultivator, R/o Pimpalgaon-Unda,
Tq. Mehkar, Distt. Buldana.
 4. Vikar Abrar Jamadar, a/a 32 years,
Occ: Cultivator and business.
- Nos.1, 2 and 4 R/o Sailani Nagar, Chikhali,
Tq. Chikhali, Distt. Buldana.

RESPONDENTS

Shri C.A. Joshi, counsel for the petitioner.
Shri A.S. Dhore, counsel for the respondent nos.1, 2 and 4.
Shri V.D. Ruparellia and Shri B.K. Suchak, counsel for the respondent no.3.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : NOVEMBER 19, 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's challenge is to the order dated 21.10.2024 passed by the trial Court rejecting the application for amendment of the plaint.

3. The learned counsel for the petitioner submits that the trial Court has rejected the application for amendment only on the ground that the evidence in the suit was started, without considering the fact that the plaintiff had proposed to incorporate pleadings with respect to subsequent events which are necessary for complete adjudication of the controversy involved in the suit.

4. The learned counsel for the respective respondents opposed the petition. They submitted that the application for amendment is filed after evidence of two witnesses and since the contents of the proposed amendment pertain to orders passed by the Revenue Authorities and were already within the knowledge of the parties, the amendment is unwarranted.

5. While considering the controversy involved in the petition, it has to be seen that by way of proposed amendment, the plaintiff has attempted to place on record the developments which occurred during pendency of the suit, particularly with respect to the orders passed by the Revenue Authorities in respect of the disputed land. The plaintiff has not attempted to introduce any new cause of action or any new prayer clause, neither there is any attempt to withdraw any admission. Since the proposed amendment is with respect to the orders passed by the Revenue Authorities, the plaintiff needs to be permitted to bring relevant facts on record for complete adjudication of the controversy involved in the suit. It has to be noted that in absence of necessary pleadings in the plaint, the plaintiff will not be able to raise her submissions with respect to the orders passed by the Revenue Authorities.

6. It has also to be seen that the application for amendment is filed after the evidence had started however since the amendment relates to the events occurred during pendency of the suit, the application needs to be allowed. Since the plaintiff has not shown diligence, possible hardship likely to be caused to the defendants can be compensated by awarding appropriate costs.

7. Having regard to the position of law as laid down by the Hon'ble Supreme Court in *Life Insurance Corporation of India Versus Sanjeev Builders Pvt.Ltd.* [(2022) 16 SCC 1], particularly paragraphs 71.2, 71.3 and 71.5 as contained in the final conclusions, the application for amendment needs to be allowed. Hence, the following order is passed:-

- I. The impugned order dated 21.10.2024 passed by the trial Court below Exhibit 86 is quashed and set aside.
 - II. The application filed by the petitioner-plaintiff at Exhibit 86 for amendment of the plaint is allowed subject to costs of Rs.10,000/- (Rupees Ten Thousand) to be paid by the petitioner-plaintiff to the respondents-defendants within a period of three weeks from the date of uploading of this judgment.
8. Rule is made absolute in aforesaid terms. The writ petition is disposed of.

(PRAFULLA S. KHUBALKAR, J.)