



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

WRIT PETITION NO. 3752 OF 2025

1. Vasant Atmaram Keshawar,
Through L.Rs.
 - A) Smt. Rupatai Vasant Keshawar,
Age : 85 years, Occ. : Housewife,
R/o. : Shashtri Nagar, Arni,
Tq. Arni, Dist. Yavatmal
 - B) Dattatray Vasantrao Keshawar,
Age : 71 years, Occ. : Service,
R/o. : Gandhi Nagar, Arni,
Tq. Arni, Dist. Yavatmal
 - C) Seema Kishore Keshawar,
Age : 60 years, Occ. : Housewife,
 - D) Snehal Kishore Keshawar,
Age : 40 years, Occ. : Service,
 - E) Vaibhav Kishore Keshawar,
Age : 37 years, Occ. : Business,
 - F) Vishal Kishore Keshawar,
Age : 34 years, Occ. : Education,
- All (C) to (F) R/o. : Deurwadi (Purva),
Arni, Tq. Arni, Dist. Yavatmal
- G) Rajendra Vasantrao Keshawar,
Age : 66 years, Occ. : Business,
R/o. : Gandhi Nagar, Arni,
Tq. Arni, Dist. Yavatmal
- H) Sanjay Vasantrao Keshawar,
Age : 63 years, Occ. : Business,
R/o. : Shashtri Nagar, Arni,
Tq. Arni, Dist. Yavatmal

- I) Vijay Vasantrao Keshaowar,
Age : 60 years, Occ. : Business,
R/o. : Shashtri Nagar, Arni,
Tq. Arni, Dist. Yavatmal
2. Smt. Kamal Ambadas Keshaowar
Through L.Rs.
- A) Sau. Alka Gajanan Padgilwar,
Age : 57 years, Occ. : Housewife,
R/o. : Vithal Nagar, Digras,
Tq. Digras, Dist. Yavatmal
- B) Sau. Anita Gajanan Tagadpalliwar,
Age : 53 years, Occ. : Housewife,
R/o. : Tahsil Quarter, Mahagaon,
Tq. Mahagaon, Dist. Yavatmal
- C) Sau. Sunita Vilasrao Bhaskarwar,
Age : 51 years, Occ. : Housewife,
R/o. : Papinwar Layout Pusad,
Tq. Pusad, Dist. Yavatmal
- D) Sau. Neha @ Vandana Udayrao Pabitwar,
Age : 49 years, Occ. : Housewife,
R/o. : Wai Bazar, Tq. Mahur,
Dist. Nanded
- E) Atul Ambadas Keshaowar,
Age : 47 years, Occ. : Business,
R/o. : Bapu Nagar, Digras,
Tq. Digras, Dist. Yavatmal
- F) Rajendra Ambadas Keshaowar,
Age : 61 yeas, Occ. : Service,
R/o. : Vishwas Appart. Dahiwalkar
Layout, Gilam Nagar, Yavatmal,
Dist. Yavatmal

... PETITIONERS

VERSUS

1. Smt. Rajanibai Ravindra Deshmukh,
Age : 60 years, Occ. : Agriculturist

2. Chaitali Ravindra Deshmukh,
Age : 35 years, Occ. : Household,
R/o. : Rai Gosta, Shendurjana,
Tq. Manora, Dist. Washim

3. Hemant Ravindra Deshmukh,
Age : 29 years, Occ. : Photographer,

Respondent Nos.1 and 3, R/o. : near old
Post Office, Arni, Tq. Arni, Dist. Yavatmal

... RESPONDENTS

...
Mr. I.M. Ghongade – Advocate for Petitioners
Mr. R.D. Bhuibhar – Advocate for Respondents

...
CORAM : SACHIN S. DESHMUKH, J.
DATE : 26.08.2025

J U D G M E N T :

1. After dismissal of the suit for declaration and injunction presented by the petitioners in the year 2009, the petitioners have presented Regular Civil Appeal No.3 of 2020 before the District Judge–1, Darwha. During the pendency of the said appeal, an application under Order VI Rule 17 of the Code of Civil Procedure is presented with two fold prayers. The pleadings were sought to be incorporated by way of an amendment *vis a vis* striking off the pleadings was also sought for. Initially, the First Appellate Court allowed the application by its order dated 22.10.2024. The said order was the subject matter of challenge before this Court in Writ Petition No.335 of 2025. This Court set aside the order for absence of reasons to that effect and directed the First Appellate Court to reconsider the application presented by the petitioners herein in

accordance with law. Thereafter, the First Appellate Court has passed the order rejecting the application. Raising an exception to the said order dated 11.07.2025 the present petitioners have approached this Court.

2. Learned Counsel for the petitioners, Mr. I.M. Ghongade has vehemently submitted that the amendment is necessary since the petitioners came to know about the order of the Tahsildar dated 24.04.1951 only on 30.06.2022. Nevertheless, the said order was obtained by fraud and therefore, the plea of limitation would not be available to the respondents herein to resist the application for amendment, which is necessary for deciding the issue effectively.

3. *Per contra*, learned Counsel for the respondents has supported the order under challenge, submitting that the application under Order VI Rule 17 of the Code of Civil Procedure is a misconceived attempt on the part of the petitioners. The proposed amendment is neither relevant for effective adjudication of the matter nor necessary. It is further submitted that the proposed amendment *vis a vis* striking off the pleadings, would cause serious prejudice and injustice to the defendants. The attempt to strike out paragraphs from the plaint is nothing but to withdraw the pleadings. Moreover, the proposed amendment is also barred by limitation and would affect the rights already vested in favour of the defendants.

4. Having heard learned Counsel appearing for the respective parties, it is a matter of record that the order rendered by the Tahsildar is of the year 1951 and that the parties have litigated even thereafter, as is evident from the sequence of events sought to be incorporated in the application for amendment. No reasons have been put-forth in the application for such delay. Particularly, when the litigation before the Revenue Authorities are prior to the institution of the suit in the year 2009. Allowing such amendment, including striking off the pleadings, would certainly cause prejudice to the defendants. The plea of ignorance claimed by the petitioners in relation to the order of the year 1951 till 30.06.2022 cannot be accepted in view of the fact that the parties were litigating for years together. As such, the plea of ignorance cannot be countenanced. Equally, the prayer for amendment does not appear to be *bonafide*.

5. At this juncture, it is necessary to make reference to the judgment of the Hon'ble Apex Court in **Life Insurance Corporation of India Vs. Sanjeev Builders Private Limited and Ors.**, 2022 (6) ABR 67, wherein the broad principles have been culled out by the Hon'ble Apex Court. The said principles are as under :

- “70. (iv) *A prayer for amendment is generally required to be allowed unless*
- (i) *by the amendment, a time barred claim is sought to be introduced, in which case the fact that the claim*

would be time barred becomes a relevant factor for consideration,

- (ii) the amendment changes the nature of the suit,*
- (iii) the prayer for amendment is malafide, or*
- (iv) by the amendment, the other side loses a valid defence.”*

6. Although a prayer for amendment is generally required to be allowed, however the same must essentially be exercised on sound grounds. The pleading sought to be introduced by way of the proposed amendment would certainly result in a change in the nature of suit, as has been observed by the District Judge while passing the order under challenge. The attempt of the petitioners to withdraw certain pleadings would also be prejudicial to the interests of the respondents. Therefore, such amendments cannot be permitted. Though a liberal approach is to be adopted, as stated hereinabove, the plea of ignorance in relation to order of 1951 cannot be accepted and, in any case, cannot be said to have been put-forth with due diligence.

7. In the light of the above, I am of the considered view that the petitioner is unable to point out any patent error in the order under challenge for this Court to interfere. Resultantly, the petition is devoid of merits. Accordingly, the petition is dismissed. However, there shall be no order as to costs.

[SACHIN S. DESHMUKH, J.]