



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

WRIT PETITION NO. 5393/2025

PRASHANT SHIVCHARAN KATHOKE

VERSUS

NIKHIL S/O LALIT SHARMA

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri Masood Shareef, counsel for petitioner.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : SEPTEMBER 17, 2025

1. Heard learned counsel for petitioner.
2. The petition takes exception to order dated 7th May 2025 passed by the trial court allowing the application for amendment filed by the plaintiff.
3. Learned counsel for petitioner submits that the plaintiffs had filed the application for amendment in the suit without establishing exercise of due diligence and the trial Court has passed the impugned order without recording any findings on the aspect of due diligence. It is submitted that the impugned order is passed ignoring the purport of provisions of proviso to order VI rule 17 of Civil Procedure Code. It is submitted that in the wake of judgment of this Court in *Writ Petition no. 3412 of 2023 Prashant Shivcharan Kathoke Vs. Nikhil s/o Lalit Sharma* with respect to the subject matter involved in the suit, the plaintiff has attempted to introduce a prayer with respect to possession by way of the proposed amendment. It is submitted that the trial Court has wrongly observed that the proposed amendment would not cause any

prejudice to the other side and that it will not change the nature of the suit.

3. Issue notice to the respondent returnable on 15.10.2025.
4. In the meantime, interim relief in terms of prayer clause (b) shall operate, which is reproduced below;

“b) Pending disposal of the present Writ Petition be pleased to stay the effect and operation of the impugned order dated 07.05.2025 passed below Ex. 16, by 14th Jt. Civil Judge, Senior Division, Nagpur in Special Civil Suit No. 1222 of 2022.”

(PRAFULLA S. KHUBALKAR, J.)