



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

WRIT PETITION NO. 5444 OF 2025

1. Umeshkumar Badalsingh Dhumale, Aged about 64 years,
Occ: Service, R/o Wardha, Tq. and Dist. Wardha.
2. Vasundharabai Harikisansingh Khokad,
Aged about 77 years, Occ: Household, R/o Aurangabad,
Tq. & Dist. Aurangabad.

PETITIONERS

VERSUS

1. Sabhashsingh Bapusingh Dhumale,
Aged about 78 years, Occ. Agriculturist.
 2. Kantabai @ Dhannabai Subhashsingh Dhumale,
aged about 65 years, Occ. Household.
 3. Santoshsingh Subhashsingh Dhumale,
Aged about 43 years, Occ. Agriculturist.
 4. Rahul Subhashsingh Dhumale,
aged about 39 years, Occ. Agriculturist.
 5. Nanda Subhashsingh Dhumale, aged about 45 years,
Occ. Household.
- All R/o Kurha, Tq. Tiwasa, Dist. Amravati.

RESPONDENTS

Shri P.R. Agrawal, counsel for the petitioners.
Shri S.B. Gandhe, counsel for the respondents.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : DECEMBER 09, 2025

ORAL JUDGMENT

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

2. The petitioners take exception to the order dated 26.08.2025 passed by the trial Court rejecting the application under Order VI Rule 17 of the Code of Civil Procedure, seeking amendment of the plaint.

3. The petitioners are the original plaintiffs who have filed suit for declaration and permanent injunction in which the defendants had

appeared and filed written statement. At the stage of final arguments of the civil suit, the plaintiffs filed application for amendment to mention area of the suit property by amending the same in paragraph 1 of the plaint. The defendants opposed the application and the trial Court rejected the same by order dated 26.08.2025 mainly on the ground that the application was filed at the stage of final arguments of the suit and by considering the aspect of lack of due diligence.

4. The learned counsel for the petitioners submitted that by way of proposed amendment, the petitioners have sought to mention the actual area of the suit property without changing the description of the suit property in any other manner. He submitted that the proposed amendment does not in any manner change the nature of the suit or reliefs claimed and it is necessary for mentioning the correct description of the suit property. He submitted that the incorrect area was mentioned in the plaint due to oversight and the amendment needs to be made for complete adjudication of the controversy involved in the suit. He submitted that the position of law is settled that the amendment may be allowed at any stage of the suit and the approach of the trial Court in rejecting the application only because it is filed at the stage of final arguments is contrary to the legal position.

5. As against this, the learned counsel for the respondents justified the impugned order and submitted that the application for amendment does not at all mention any reasons for not incorporating the same while filing the plaint and the plaintiffs have failed to exercise due diligence.

6. While considering the rival contentions, it has to be seen that by way of proposed amendment, the plaintiffs had sought to mention the area of the suit property as 317 square meters in place of 1037.4 square meters which was earlier mentioned in paragraph 1 of the plaint. Pertinently, paragraph 1 of the plaint contains a description of the suit property which is House no.168 mentioning ward number and the boundaries. Although the area of the said house property was mentioned as 1073.4 square meters, the correction sought to be made by way of amendment to state the actual area, cannot be considered to be an amendment to anyway change the nature of the suit. The proposed amendment cannot even be considered to cause any prejudice to the other side. Rather, the amendment to mention correct area of the suit property is necessary for effective and complete adjudication of the controversy involved in the suit. It has also to be noted that the amendment is sought in the suit itself and if the area is not allowed to be corrected, the decree, if any, would be rendered defective.

7. The position of law is settled that an amendment can be permitted at any stage of the suit. Pertinently, in the instant case, the amendment is sought at the stage of final arguments and even the reason mentioned for seeking amendment as 'oversight of the plaintiffs' cannot be considered to be absolutely sufficient. However, in the interest of justice and for the sake of complete adjudication of the controversy involved in the suit, the amendment needs to be allowed by imposing appropriate costs to avoid hardship to the defendant. Hence, the following order is passed:-

- I. The writ petition is allowed.
 - II. The order dated 26.08.2025 passed by the trial Court on the application for amendment at Exhibit 201 is quashed and set aside.
 - III. The application for amendment filed by the plaintiffs at Exhibit 201 is allowed subject to costs of Rs.10,000/- (Rupees Ten Thousand) to be paid by the plaintiffs to the defendants within three weeks from the date of uploading of this judgment.
 - IV. It is clarified that the plaintiffs will not be entitled to lead any fresh evidence only on account of this amendment.
8. Rule is made absolute in aforesaid terms. The writ petition is disposed of.

(PRAFULLA S. KHUBALKAR, J.)