IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

918 WRIT PETITION NO. 14218 OF 2026

MALANBAI DADARAO KHADKE AND ANOTHER
VERSUS
SHREEHARI ASSOCIATE PVT LTD THR SACHIN MADHUKARRAO MULEY AND OTHERS

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Advocate for the Petitioners : Mr. Shaikh Tarek Mobin H.

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CORAM : MANJUSHA DESHPANDE, J.

DATE : 13.10.2026.

PER COURT :

1. Heard the learned Advocate for the petitioners.

2. The petitioners who are the original plaintiff are aggrieved by the order passed by the Civil Judge Senior Division, Aurangabad in RCS No. 952 of 2023 vide order dated 05.10.2026.

3. The petitioners have filed a Regular Civil Suit No. 952 of 2023 for partition, separate possession and declaration of the suit property bearing land gut No. 55, ad-measuring 1 H 86 R out of it 1 Acre 21 R situated at village Itkheda, Tq and District Aurangabad.

4. During the pendency of the suit, the petitioners had filed an application for amendment for adding the purchaser as party defendant to the suit. This application has been allowed by order dated 20.11.2023. It is submitted that the application for amendment was allowed but the

amendment could not be carried out by the petitioners and thereafter the petitioner has filed an application on 05.10.2026 for extension of time to carry out the amendment, which was already granted vide order dated 20.11.2023. However, this application has been rejected by the learned 18th Joint Civil Judge Senior Division, Aurangabad, thus, being aggrieved by the same, the petitioners are approaching this Court.

5. According to the petitioners, the petitioners herein are illiterate and have no knowledge about the law, therefore, they could not take steps for carrying out amendment within stipulated period as provided under Order 6 Rule 18 of the Code of Civil Procedure.

6. Since the subsequent purchasers are required to be added as party defendant to the suit and which is also allowed by the learned Civil Judge Senior Division, Aurangabad. It is only due to lack of the appropriate action on the part of the present petitioners, due to illiteracy, appropriate amendment could not be carried out within the period prescribed, thus the order needs to be quashed and set aside by allowing the application dated 05.10.2026.

7. I have gone through the impugned order as well as the order passed allowing the application filed by the petitioners. Although, the petitioners have failed to carry out amendment within the period of limitation as prescribed under Order 6 Rule 18 of the CPC and even within the period of limitation prescribed under Section 148 of the CPC.

Considering the merits of the matter and also in view of the fact that the application for amendment has already been allowed and only on account of failure to carry out the amendment the petitioners are put to a dis-advantageous position in the suit which needs to be rectified.

8. The petitioner has relied upon the decision of this court in the case of **Ignatius Tony Pereira Vs. Travel Corporation (India) Pvt Ltd. - 2013 (3) Mh. L.J. 406**, wherein this Court has taken a view that considering that the procedural law is not to trip litigant of their substantive rights but to advance the cause of justice, the application for extension of time should be granted by the Court, even if, it is beyond the period of limitation as prescribed under Order 6 Rule 18 of the CPC.

9. In view of the aforementioned discussion and considering that the application for amendment has already been allowed, therefore to further the cause of justice the order passed by the Joint Civil Judge Senior Division, Aurangabad dated 05.10.2026 is quashed and set aside and the time for carrying out necessary amendment in the suit as prayed by the petitioners in their application is extended for a period of two weeks from the date of this order. At this stage it would be necessary to state that, this is the first hearing and considering that while passing the order dated 05.10.2026 the said application has been disposed of by the learned Civil Judge Senior Division, even calling the say of the respondent herein, therefore, in view of the fact that the application for amendment is already allowed and the respondents are very much aware

of the same, hence no prejudice would be caused to the respondent if such time is extended for carrying out the amendment, hence consequently following order :

ORDER

(i) The order passed by the 18th Jt. Civil Judge Senior Division, Aurangabad in RCS No. 952 of 2023 dated 05.10.2026 is hereby set aside.

(ii) The time to carry out necessary amendment is extended for a period of 2 weeks from today subject to payment of cost of Rs. 10,000/- (Rs. Ten Thousand Only) to be paid it to the respondents, within a period of two weeks from today.

(iii) The Writ Petition stands disposed of in above terms.

(MANJUSHA DESHPANDE, J.)

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