



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

966 WRIT PETITION NO. 1165 OF 2025

Ajinkya Dinkar Bargaje Through Poa Gopalrao Annasaheb  
Bargaje And Another

VERSUS

Dinkar Gopalrao Bargaje And Others

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Advocate for the Petitioner : Mr. V.S. Undre

Advocate for Respondents 2,3, 2.1 to 2.10 : Mr. S.S. Bora

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : January 07, 2026

**PER COURT :-**

1. The petitioners/plaintiffs impugn the order dated 11.12.2024 passed by the learned Civil Judge S.D. Bhoom below Exhibit-222 in RCS No.4 of 2015, by which application filed by the petitioners seeking amendment in the plaint is rejected.

2. Mr. Undre, learned advocate appearing for petitioners submits that petitioners have instituted the suit seeking relief of declaration of ownership in respect of land gat no.577 and 579 situated at village Chincholi. They claim right over the suit property on the basis of the partition. However, defendant no.1 i.e. their father transferred properties during pendency of the suit. Therefore, petitioners had filed an application below

Exhibit-222 seeking permission to amend the plaint to incorporate the prayer seeking declaration against the sale deed dated 24.11.2008 executed by defendant no.1 in favour of defendant no.3. However, Trial Court rejected the application on erroneous count.

3. Per contra, Mr. Bora, learned advocate appearing for respondents supports the impugned order and relying upon the law laid down by the Supreme Court in case of **Life Insurance Corporation of India Vs. Sanjeev Builders Private Limited and others reported in AIR 2022 SC 4256** and submits that amendment in respect of a time barred claim cannot be permitted.

4. Having considered submissions advanced by learned advocates appearing for respective parties, it can be observed that petitioners instituted suit in the year 2008 seeking relief of declaration of ownership and injunction. They averred that defendant no.1-their father has executed agreement to sale and likely to alienate the property. In response to suit summons, defendant no.1 filed written statement contending that he has already executed registered sale-deed to satisfy the family requirements. In that view of the matter, plaintiffs had

knowledge about execution of the sale-deed since 2008 onwards. It appears that issues were framed and matter advanced to the stage of final hearing. After conclusion of evidence of the parties, present application is filed at the belated stage. Apparently, plaintiffs are seeking relief of declaration that sale-deed executed by defendant no.1 in favour of defendant no.3 is not binding on their rights. The application submitted by petitioners below Exhibit-222 seeking amendment nowhere explained the reasons for not filing the application immediately after getting knowledge regarding execution of the sale-deed. In this background, proviso under Order VI Rule 17 would come in picture and in absence of explanation for inordinate delay, amendment cannot be allowed. Secondly, the prayers which is sought to be brought on record is for declaration against the sale-deed executed in the year 2008. Apparently, limitation for seeking declaration under Article 58 would be three years. The claim sought to be inserted by way of proposed amendment is apparently time barred by the limitation. In light of aforesaid factual matrix, observations of the Supreme Court in case of Life Insurance Corporation of India (supra) particularly, clause no.iv in paragraph no.70 would come in way of the petitioners. It is

observed by the Supreme Court that time barred claim sought to be introduced cannot be permitted.

5. In light of the aforesaid factual and legal background, the impugned order refusing to entertain the application for amendment cannot be faulted with. Since no jurisdictional error is brought to the notice of this Court, writ petition sans merit, hence **dismissed**.

( S. G. CHAPALGAONKAR, J. )

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