

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 2819 OF 2025

Hadimiya Murtaza Sayyad Died Through Lrs Sayad Zubeda Hadimiya
And Others

VERSUS

State Of Maharashtra Through District Collector And Others

...

Advocate for the Petitioners : Mr. Dixit Sushant V.

AGP for Respondent/State : Mr. S.A. Gaikwad

Advocate for Respondent No.5 : Mr. B.N. Magar

Advocate for Respondent No.6 : Mr. G.R. Syed

...

CORAM : S. G. CHAPALGAONKAR, J.

DATED : FEBRUARY 24, 2026

PER COURT :-

1. Present writ petition takes exception to order dated 24.01.2025 passed by Civil Judge, Senior Division, Shrirampur below Exhibit-132 in Regular Civil Suit No.48 of 2016, whereby petitioners application seeking amendment in plaint has been rejected.

2. The petitioners/plaintiffs instituted suit seeking declaration that will dated 30.11.1990 executed by Dadibi/Bisabi as illegal and sought direction against respondent nos.1 and 2 that suit property be allotted to plaintiffs and also prayed for relief of perpetual injunction. The respondents in their additional written statement, specifically pleaded in para 21 that land survey nos.9 and 13 were originally owned by Mehmudmiya Hadimiya Sayyad and in lieu of Meher amount, he transferred those lands in favour of Bisabi @ Dadibi under registered document dated 05.10.1932. Written statement appears to have been filed in the year 2016.

3. The Trial Court framed issues based on pleadings of parties. The plaintiffs and defendants recorded their evidence. At this stage defendants placed on record copy of registered document dated 05.10.1932. After production of document, plaintiffs filed application under Order VI Rule 17 seeking amendment in plaint to incorporate relief of declaration against document of 1932. The Trial Court refused to grant such permission observing that plaintiffs had knowledge of document of 1932 throughout proceeding of suit but amendment is sought at fag end of trial without any explanation as to due diligence.

4. It is trite that amendment in plaint can be permitted at any time before commencement of trial. However, once trial is commenced, rider as stipulated under proviso to Rule 17 of Order VI comes into picture. In such a case, if plaintiffs want to amend pleadings, they will have to give reasons as to why such amendment was not sought before commencement of trial or they have to demonstrate due diligence. Apparently, written statement filed by respondents stipulates particulars of document dated 05.10.1932. The plaintiffs were well aware about such document, further, during course of trial, there is reference of said document at every stage.

5. In this backdrop, in absence of explanation of delay in filing application for amendment, Trial Court is justified in refusing permission to amend plaint. Apparently, Trial Court has rightly

appreciated factual and legal aspects of the matter. This Court does not find jurisdictional error warranting interference under Article 227 of Constitution of India. Hence, writ petition stands rejected.

(S.G. CHAPALGAONKAR, J.)