



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 12396 OF 2025

AJAY RAJKUMAR SHUKLA

VERSUS

RUPCHAND BHAGCHAND KASLIWAL AND OTHERS

...

Mr. Ashwin Vinayak Hon, Advocate for the Petitioner.

Mr. G. P. Darandale, Advocate for Respondent No.1.

Mr. Ujwal Patil, Advocate for Respondent Nos.5 to 15.

...

AND

WRIT PETITION NO. 12397 OF 2025

AND

WRIT PETITION NO. 12415 OF 2025

CORAM : S. G. CHAPALGAONKAR, J.

DATED : 13th JANUARY, 2026.

P.C.:-

1. The present Writ Petitions takes exception to order dated 08.08.2025 passed below Exhibit-33 by District Judge, Shrirampur in Commercial Summary Suit No.2/2025.

2. The respondent/plaintiff instituted Summary Suit with multiple prayers. First prayer is to put charge on property of respondent no.1. Second prayer is for injunction from creating third party right and interest over suit property. Third prayer is regarding mandatory injunction for supply of 4000 quintal sugar. Fourth prayer is an alternate prayer, by which plaintiff sought relief that in case defendant failed to supply sugar to plaintiff, then amount of Rs.2,29,95,660/- shall be directed to be refunded by

defendant alongwith interest @ 24% per annum. The other prayers are regarding compensation and damages.

3. The petitioner/defendant appeared in suit and raised objection as to maintainability of suit. At this stage, plaintiff filed application below Exhibit-33 seeking amendment of plaint, particularly to withdraw one of the relief as claimed in plaint. The aforesaid application was opposed by petitioner on ground that plaintiff is withdrawing prayer only after petitioner/defendant raised objection as to maintainability of suit and wants to wipe off defence/objection raised by petitioner/defendant.

4. The learned District Judge after considering rival submissions allowed application holding that plaintiff is master of plaint and entitle to withdraw any prayer in plaint. It is observed that proposed amendment is technical in nature and plaintiff cannot be precluded from making such amendment.

5. Mr. Ashwin Hon, learned Advocate appearing for petitioner vehemently submits that plaintiff is trying to frustrate defence that was raised on behalf of petitioner/defendant. The specific objection was raised that suit cannot be treated as Commercial Suit. However, instead of arguing on objection raised by petitioner, application for withdrawal of one of the claim in suit has been filed. Such course could not have been allowed.

6. Per contra, learned Advocates appearing for respondents supports impugned order.

7. Having considered submissions advanced by learned Advocates appearing for respective parties, it can be observed that Commercial Suit is at preliminary stage. It has not reached to stage of framing of issues. Although defendant raised objection as to maintainability of suit, plaintiff appears to have taken corrective steps to withdraw one of the prayer, so that Summary Suit can be maintained. The law do not prevent plaintiff from seeking amendment in plaint atleast prior to framing of issues and commencement of trial. Only bar is that such amendment shall not be inconsistent with pleadings or shall not take away admission incorporated in plaint or change nature of suit.

8. Learned District Judge is right in observing that plaintiff is master of suit and can withdraw prayer/claim in suit. In present case, plaintiff wants to maintain other prayers in suit and withdraw one of the prayer, whereby he sought refund of amount in case of failure to supply sugar as agreed between parties. In this background, only because petitioner/defendant had raised objection as to maintainability of suit based on such prayer, plaintiff cannot be precluded from withdrawing such prayer by appropriate amendment in plaint.

9. The Supreme Court in case of *Life Insurance Corporation of India Vs. Sanjeev Builders Private Limited and Anr.*¹ has observed that amendment shall be liberally construed and unless aforesaid fetters are brought to notice of Court, it shall be granted without demure. In present case, nothing is brought to notice of this Court to show that amendment to withdraw one of the prayer cannot be granted for any reason.

10. In that view of matter, there is no merit in Writ Petitions. Hence, Writ Petitions stand dismissed.

11. Needless to state here that all objections and contentions regarding maintainability of suit raised on behalf of petitioner are kept open and shall be considered in accordance with law.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/January-2026

¹ AIR 2022 SC 4256.