



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 1733 OF 2026**

AMRUTA AVINASH AKOLKAR AND OTHERS
VERSUS
PUSHPABAI KASTURCHAND BADJATE AND OTHERS

...
Mr. Shaikh Ashraf Patel, Advocate for the Petitioners.

...
CORAM : S. G. CHAPALGAONKAR, J.
DATED : 17th FEBRUARY, 2026.

P.C.:-

1. The present writ petition takes exception to order dated 09.12.2025 passed below Exhibit-19 by Civil Judge Junior Division, Aurangabad in Regular Civil Suit No.979/2024, whereby application for amendment submitted by respondents came to be allowed.

2. The petitioners are plaintiffs in Regular Civil Suit No.979/2024. The suit is instituted for decree of perpetual injunction. The respondents/defendants appeared in suit and filed written statement. They took stand that boundary of property, particularly on Eastern side has been wrongly mentioned by petitioners/plaintiffs. They contended that there is no property of Mr. Tarvindersingh Dhillan on Eastern side of suit property, as pleaded in plaint. The defendants also filed counter claim, wherein they took similar plea.

3. Later on, respondents/defendants filed application for amendment in written statement and counter claim, wherein they

contended that at the time of filing written statement, they had no knowledge as to whether certain part of property was sold to Mr. Tarvindersingh Dhillan and, therefore, they took plea in written statement that there is no land of Mr. Tarvindersingh Dhillan on Eastern side of suit land. Accordingly, they sought amendment in written statement and counter claim as stipulated in paragraph nos.4 and 5 of application for amendment. The aforesaid application was opposed on behalf of petitioners/plaintiffs. However, Trial Court allowed said application vide impugned order dated 09.12.2025.

4. Mr. Shaikh, learned Advocate appearing for petitioners would submit that respondents had candidly took a plea in written statement that four boundaries as mentioned in plaint are not correct and they took specific objection to Eastern side boundary, which was specified giving reference to land of Mr. Tarvindersingh Dhillan. Now aforesaid contentions raised in written statement is sought to be withdrawn and, therefore, there would be change in nature of suit.

5. Having considered submissions advanced, it can be observed that suit filed by petitioners is at nascent stage. The respondents filed written statement, wherein they objected description of four boundaries given in plaint, particularly to Eastern side boundary of suit land described in plaint. It appears that, respondents have

also filed counter claim alongwith written statement, wherein they reiterated their stand that land of Mr. Tarvindersingh Dhillan is not situated on Eastern side. The application seeking amendment appears to have been filed with contentions that defendants got copy of sale deed and consent deed executed by predecessor in title of plaintiffs in favour of Mr. Tarvindersingh Dhillan. Now it has been revealed that certain portion of property sold to Mr. Tarvindersingh Dhillan. Therefore, they sought to correct averments made in written statement and counter claim. The Trial Court finds that such amendment would not change nature of suit and permitted amendment as prayed.

6. If nature of amendment is seen, it appears that, defendants want to change stipulation as regards to boundaries of suit property on the basis of certain documents, which came to their knowledge during pendency of suit. Till this date, issues are not framed. The amendment sought in written statement and counter claim needs to be liberally granted in light of law laid down by Supreme Court in case of *Life Insurance Corporation of India Vs. Sanjeev Builders Private Limited and Anr.*¹. The Trial Court has taken pragmatic view of matter and permitted amendment. Apparently, such amendment would not change nature of defence raised in suit or counter claim. The petitioners have every opportunity to dispute averments in written statement

¹ AIR 2022 SC 4256.

or counter claim by filing their own written statement. No prejudice would be caused to petitioners.

7. In result, Writ Petition sans merit. Hence, dismissed.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/February-2026