



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

928 WRIT PETITION NO.2850 OF 2026

Ganesh Vitthal Karale And Another
VERSUS
Vitthal Hiranman Karale And Others

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Advocate for Petitioners : Mr. S.S. Gangakhedkar
Advocate for Respondents 1,5 : Mr. D.R. Jaybhar
Advocate for respondent no.6 : Mr. T C Kale

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : March 17, 2026

PER COURT :-

1. Present petition takes exception to the order dated 13.02.2026 passed below Exhibit-219 in R.C.S. No.174 of 2024, by which application of petitioners/plaintiffs seeking amendment of the plaint has been rejected.

2. Mr. Gangakhedkar, learned advocate appearing for petitioners submits that amendment was sought only for the purpose of adding certain parties, who are sisters of Vitthal i.e. defendant no.1. He would submit that because revenue record in respect of suit properties refers to their names hence their presence for adjudication of suit would be necessary for final adjudication. However, Trial Court declined to accept the prayer of plaintiffs on the ground that such an amendment

would not be necessary for final adjudication of dispute and amendment is sought at belated stage i.e. after commencement of the trial.

3. Per contra, Mr. Jaybhar, learned advocate appearing for respondent nos.1 and 5 and Mr.Shinde, learned advocate appearing for respondent no.6 vehemently opposed the petition and supports the impugned order.

4. Having considered submissions advanced by learned advocate appearing for respective parties, it can be observed that application seeking amendment in plaint and addition of parties has been made by plaintiffs when suit was posted for final arguments. It can be observed that suit is filed for partition and separate possession of suit properties, which were originally owned by Hiranman. In partition by Hiranman suit properties were received by Vitthal. Some of properties were purchased by him and his descendants out of joint properties. In this backdrop, plaintiffs/sons of Vitthal wants addition of sisters of Vitthal as party to the suit under the pretext that revenue record depicts their rights in suit property.

5. Trial court has rightly observed that suit is instituted by petitioners claiming right in property exclusively allotted to

Vitthal in partition between him and his brother. It is therefore clear that the property in dispute was exclusively owned by Vitthal. His sons are claiming partition in respect of the suit property. In that view of matter, addition of sisters of Vithal would not be relevant. Admittedly, all these facts were within knowledge of plaintiffs when suit was instituted. Thereafter issues were framed, matter was put to trial and after recording of evidence of parties, present application seeking amendment was moved. Apparently, there is non-compliance of proviso under Order 6 Rule 17, which requires party to satisfy due diligence in case of amendment is sought after commencement of the trial.

6. In the present case, there is no explanation as to why such amendment was not brought at the earlier stage of the proceeding.

7. In that view of the matter, this Court do not find that there is any jurisdictional error in the impugned order requiring interference in writ jurisdiction. In result writ petition stands **rejected**.

(S. G. CHAPALGAONKAR, J.)

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