



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

17 WRIT PETITION NO. 3949 OF 2026

SAEEDA BEGUM YUSUF AND OTHERS

VERSUS

SAYYED MEHAR ALI SYED BABAR ALI AND OTHERS

...

Mr. Shaikh Mujtaba Gulam Mustafa – Advocate for Petitioner

Mr. Akram Inamdar h/f. Mr. Swapnil P. Chaudhari – Advocate for
Respondent Nos.1 to 4

...

CORAM : S. G. CHAPALGAONKAR, J.

DATE : 20.04.2026

PER COURT :

1. The petitioners takes exception to order dated 23.01.2026 passed by Civil Judge, Junior Division, Sillod, Tq. and Dist. Aurangabad in Regular Civil Suit No.126 of 2009, whereby application filed below Exhibit 111 seeking amendment of plaint came to be rejected.

2. The petitioners are original plaintiffs. They instituted the suit seeking relief of perpetual injunction in respect of suit property, which is part and parcel of Gat No.9 situated at village Ajanta. The suit proceeded, evidence of both parties has been recorded. At the fag end of trial, when matter was posted for arguments, petitioners filed an application at Exhibit 111 seeking amendment of plaint to bring on record that a portion of suit property admeasuring 5 H 99 R has already been sold to

one Abdul Ajij Bin Abdullah and that petitioners are now owners of balance land admeasuring 1 H 60 R.

3. The Trial Court rejected said application primarily on the ground that it was filed at a belated stage i.e., at stage of final arguments, without satisfactory explanation for delay.

4. Learned Counsel for petitioners submits that, proposed amendment was necessary to bring subsequent developments on record, regarding sale of part of suit property to a third party, that could not be brought earlier.

5. Learned Counsel for respondents vehemently opposes the petition and submits that amendment cannot be permitted at such a belated stage, particularly when trial is practically concluded and matter is fixed for final arguments.

6. Having considered rival submissions made on behalf of petitioners and reasoning adopted by Trial Court, this Court finds that suit proceeded and reached to advanced stage. The evidence of plaintiffs as well as defendants has been recorded and matter is posted for final hearing. In this backdrop, as rightly observed by Trial Court, in light of proviso to Order VI Rule 17 of the Code of Civil Procedure, amendment cannot be allowed after commencement of trial in absence of due diligence on the part of petitioners. Even otherwise, by way of amendment, petitioners

seek to bring on record pendente lite sale of part of the suit property. Such amendment would not be necessary for deciding the issues in suit for perpetual injunction and would rather alter the nature and scope of the suit.

7. The Trial Court has rightly considered these aspects and rejected the application. No case is made out for interference in writ jurisdiction.

8. In view of above, writ petition is devoid of substance and stands rejected.

9. Pending Civil Applications, if any, also stand disposed of.

[S. G. CHAPALGAONKAR]
JUDGE

Pooja Kale/