

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
APPELLATE JURISDICTION**

68 WRIT PETITION NO. 264 OF 2026

Sunil Bapu Lavate

...Petitioner

VERSUS

Santosh Jaganth Karande

...Respondent

...

Mr. Umesh R. Mankapure i/b Mr. Magdum Siyal Firoj, Advocate for
Petitioner

...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 29th JANUARY 2026.

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P.C.

1. Petitioner challenges the order dated 8th September 2025 passed by learned Civil Judge, Senior Division, Pandharpur below Exhibit 44 in Special Civil Suit No. 148 of 2023 thereby allowing the amendment application filed by the respondent-plaintiff.

2. Respondent-plaintiff filed the suit for recovery of amount of Rs. 48,60,000/-. Petitioner-defendant opposed the suit by filing written statement. The parties have led the evidence. The plaintiff thereafter filed application Exhibit 44 under Order VI Rule 17 of Code of Civil Procedure, 1908 seeking following amendment "Gut No. 593/2 admeasuring 4 Hector, 38 Are, Pot Kharab 26 Are out of 1 Hector 20 Are" contending that it is a technical amendment and does not change the nature of the suit.

3. The petitioner-defendant opposed the said application by filing say at Exhibit 46 stating that the suit is at the stage of hearing, therefore, application is not maintainable. Since the plaintiff has already entered the witness box and his evidence is recorded, so also cross-examination is conducted by the defendant, at this stage, the application is not maintainable. The application is filed so as to fill up the lacunas in the plaint and to make admissions given in the cross-examination ineffective.

4. The Trial Court after hearing the parties has allowed the application observing that

“Plaintiff is seeking amendment to the effect that the Gut number and area of the property with regard to which the suit is pending and where the property is situated. No doubt during the cross-examination of P.W. 1 he has admitted that in notice, plaint as well as affidavit of examination-in-chief Gut number, area and the place where the property is situated is not mentioned. This is fact. If at all the amendment is allowed the nature of suit will not be changed. Further one more thing is necessary to be considered is that if the amendment is not allowed and suit is decreed then the decree can not be executed as there is no identification of the suit property. If the suit is dismissed then there will be no prejudice to the defendant.”

By observing this, the Trial Court has allowed the application for amendment by imposing cost of Rs. 2,000/-.

5. Learned advocate for respondent strenuously submitted that the application for amendment was filed by the plaintiff only to fill up lacunas and to make the admissions given by him in the cross-examination ineffective. The impugned order is liable to be quashed and set aside.

6. Having heard learned advocate for the petitioner and on going through the impugned order, this Court is of the considered view that the Trial Court has rightly exercised the discretion in favour of the plaintiff as the amendment which is allowed is of technical nature. No prejudice is caused to the petitioner-defendant by allowing the said amendment. The petitioner will have opportunity to file additional written statement. The Trial Court has passed a well reasoned order which is not liable to be interfered with in extraordinary jurisdiction.

7. Writ Petition, being devoid of merit, is dismissed.

(NITIN B. SURYAWANSHI, J.)