

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

WRIT PETITION NO. 1656 OF 2026

Dilip Sadashiv Patil
VERSUS
Sarjerao Ganpati Patil And Anr.

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Mr. Rushikesh Patil, Advocate for Petitioner.

Mr. Manoj Sabale a/w Mr. Somvrat Kurlekar Advocate for
Respondent No.1.

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CORAM : SACHIN S. DESHMUKH, J.
DATE : 16th APRIL, 2026.

P. C. :

1. The petition raises challenge to the order dated 06.03.2026 rendered by the 3rd Joint Civil Judge, Senior Division, Kolhapur below Exhibit 180 in Special Civil Suit No.285 of 2018 whereby the application filed by the Petitioner under Order VI Rule 17 came to be rejected.
2. The Respondent No.1 is the original Plaintiff, who had instituted a Special Civil Suit No.285/2018 before the Joint Civil Judge Senior Division, Kolhapur seeking cancellation of sale deed, declaration of preferential rights and permanent injunction against

the defendants including Petitioner and Respondent No.2/Defendant No.2. (Hereafter, the parties shall be referred to as per their original status in the suit).

3. In the interregnum the Defendant No.2 presented an application below Exhibit-180 under Order VI Rule 17 of the Civil Procedure Code, 1908 (CPC) for amendment in the written statement contending that certain ancestral properties are not part of the suit. The same was contested by the Plaintiff.

4. The trial Court, after considering the fact that the earlier application presented by the vendor of the Defendant No.1 suffered rejection and that thereafter the present Defendant No.1 has filed the application seeking amendment to his written statement, proceeded to reject the same. Accordingly, the Petitioner is before this Court.

5. Learned counsel for the Defendant No.1 submits that the order under challenge is unsustainable in law. The trial Court failed to consider that the original plaintiff had amended the plaint at various instances and had not disclosed details of all the ancestral property in the said suit. In absence of the same, the suit for partition cannot be adjudicated. The suppression of such crucial

facts, is deliberate at the instance of the plaintiff. It is further submitted that the suit property is purchased by the Defendant No.1 by way of registered sale deed on payment of full consideration from Defendant No.2. Accordingly, the said suit property is in the possession of Defendant No.1 since 2011. As such, the trial Court erred in considering all the aspects and wrongly rejected the application.

6. The counsel for the Respondent No.1/Original Plaintiff has supported the order under challenge and prayed to reject the Petition.

7. Having heard the submissions from the litigating sides and upon perusal of the material on record indicates that the Petitioner is admittedly a purchaser of agricultural land from Defendant No.2; as such, prima facie, being stranger to the ancestral properties there are subject matter of the suit properties or the alleged left-out properties.

8. Perusal of the order under challenge indicates that the proposed amendment is sought after cross examination of Defendant No.6, wherein disclosure of certain properties bearing C.T.S. No.34 and 43 surfaced on record. However, the said

properties are not the suit properties.

9. It is pertinent to note that the disclosure of the aforesaid suit properties during the cross examination which took place on 08.09.2025 and accordingly, similar application for amendment was preferred by the defendant No.2, which came to be rejected by the trial Court vide order dated 01.01.2026.

10. In response, at a later juncture, the Defendant No.1/Petitioner preferred the application for amendment seeking addition of the same properties as that of the Defendant No.2. Thus, prima facie, the attempt of the Petitioner to protract proceedings and in the due process, seek amendment of the suit property at a later juncture after the rejection of the Defendant No.2's plea is not bonafide for the adjudication of the suit.

11. Furthermore, the trial has progressed and the evidence of the plaintiff has concluded. As such, the suit is at the stage of evidence of Defendants and accordingly, Defendant No.6 has been cross examined while the matter is now posted further for the examination of other defendants.

12. In view of the aforesaid facts and circumstances, such delayed amendment on the part of the Petitioner, would be an abuse of

process of law.

13. As such, no error is noted in the order under challenge. Resultantly, the Petition sans merit and stands dismissed.

14. At this juncture, learned counsel for the Respondent No.1/Original Plaintiff has requested to ensure the trial to expedite the proceedings.

15. In the interest of justice, considering that the suit is of the year 2014, the concerned Court is hereby directed to conclude the suit expeditiously and shall make an endeavour to conclude the suit by the end of December, 2026.

[SACHIN S. DESHMUKH, J.]