



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.525 OF 2026**

Gayatri Builders & Developers and Ors. ... Petitioners
versus
Akbar Ismail Shaikh and Ors. ... Respondents

Mr. G.S.Godbole, Sr. Advocate i/by Mr. Sumit Kothari, for Petitioners.
Ms. S.S.Jadhav, AGP for State.

CORAM: N.J.JAMADAR, J.

DATE : 13 JANUARY 2026

P.C.

1. Heard the learned Counsel for the parties.
2. The challenge in this Petition is to an order dated 9 May 2024 passed by the learned Civil Judge, Sr. Division, Nashik, on an application (Exh.93) preferred by the Respondents – Plaintiffs for amendment in the plaint, which came to be allowed. By the proposed amendment the Plaintiffs sought to add a prayer that, in the event the suit property is acquired, the compensation shall not be paid to the Defendant Nos.1 to 5.
3. Mr. Godbole, learned Senior Advocate for the Petitioners, submitted that the Defendants – Petitioners have filed written statement in the year 2017 and in the said written statement, contentions regarding the bar of limitation and acquisition of the subject property were raised and yet the amendment application came to be filed on 2 December 2022. Therefore, the trial Court could not have allowed the application for amendment.

4. The proposed amendment, prima facie, appears to be essentially consequential to the primary relief of specific performance of the contract in respect of the suit property. It does not appear that the proposed amendment would materially alter the nature of the suit. In any event, in view of the decision of the Supreme Court in the case of **Ragu Thilak D. John V/s. S. Rayappan and Ors**,¹ the issue of bar of limitation can be kept open for adjudication at the time of final disposal of the suit.

5. The Writ Petition, thus, stands disposed, keeping open the issue of limitation and the right of the Defendants to challenge the legality, propriety and correctness of the impugned order in the appeal which may be preferred in the event the decree is passed against the Petitioners, as provided under Section 105 of the Code of Civil Procedure, 1908.

(N.J.JAMADAR, J.)

¹ (2001) 2 SCC 472