

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 796 OF 2026

Salikram Babulal Yadav & Anr. ..Petitioners

Versus

Birju Khurbhur Yadav And Ors ...Respondents

Mr. Dhananjay Singh, a/w Mr. Sancchit Singh, for the
Petitioners.

CORAM: N. J. JAMADAR, J.

DATE : 23rd JANUARY 2026

ORAL ORDER:

1. Heard the learned Counsel for the petitioner.
2. The challenge in this petition is to an order dated 24th September, 2025 passed by the Additional Principal Judge, City Civil Court, Dindoshi, whereby a Chamber Summons being Chamber Summons No. 642/2024, taken out by the respondent-plaintiff to amend the plaint so as to bring on record the subsequent events and seek corresponding prayers, came to be allowed.
3. The learned Counsel for the petitioner-defendant submitted that, the initial prayers in the suit instituted by the respondents were unsustainable. In the original plaint the Respondent No. 1 has not prayed for possession, and had sought declaration and partition only. Therefore, the proposed

amendment could not have been allowed, as the entitlement of the respondent to seek the prayer of declaration and partition goes to the root of the matter.

4. The learned Judge, City Civil Court, was of the view that, by the proposed amendment the Respondent No. 1 was bringing on record the subsequent events. The objection to the proposed amendment, raised on behalf of the defendant, pertained to the merits of the case, sought to be putforth by way of amendment; which could not have been examined at the stage of considering an application for amendment.

5. The view of the learned Additional Principal Judge, City Civil Court, Dindoshi, is justifiable. It is trite that, the Court is required to take cautious cognizance of the subsequent events. It was the case of the respondent No. 1 that, in lieu of the original premises, which was situated in the slum, the Defendant Nos. 1 and 2 have been allotted permanent alternate accommodation and the said fact was sought to be brought on record and reliefs prayed for in respect thereof.

6. Whether the respondent No.1 - plaintiff succeeds in establishing the said claim, is a matter which touches upon the merits of the claim. It is well recognized that, the merits of the case, sought to be introduced by way of amendment, cannot be

delved into at the stage of considering an application for amendment. A useful reference in this context can be made to the decision of the Supreme Court in the case of *Rajesh Kumar Aggarwal & Ors. Vs. K. K. Modi & Ors.*¹,

7. The proposed amendment appears to be essential for the determination of the real questions in controversy between the parties. The proposed amendment does not change the nature and character of the suit. Nor it has the potentiality to cause - irretrievable prejudice to the petitioners. They will have an efficacious opportunity to meet the case set up by the plaintiff, by way of proposed amendment.

8. Resultantly, in exercise of supervisory jurisdiction, this Court does not find any justifiable reason to interfere with the impugned order.

9. The petition, thus, stands dismissed.

10. The petitioners-defendants are at liberty to file an additional written statement to the amended plaint, within a period of one month from the date of uploading of this order.

[N. J. JAMADAR, J.]

1 (2006) 4 SCC 385