



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.808 OF 2026**

Dnyandev Balu Khidbide and Ors. ... Petitioners
versus
Yashwant Balkrushna Jadhav and Ors. ... Respondents

Mr. Vivek V. Salunke with Ms. Manthan A. Chaudhari, for Petitioners.
Mr. Prashant R. Suryawanshi i/by Mr. G.M.Savagave, for Respondent No.1.

CORAM: N.J.JAMADAR, J.

DATE : 23 JANUARY 2026

ORAL ORDER :

1. Rule. Rule made returnable forthwith, and, with the consent of the learned Counsel for the parties, heard finally.
2. The challenge in this Petition is to an order dated 10 October 2025 passed by the learned Civil Judge, Mangaon, whereby the application preferred by the Petitioners – Plaintiffs to correct the description of the suit property came to be rejected, principally on the ground that the amendment was sought at a belated stage when the suit came to be posted for final arguments, and, thus, the interdict contained in the proviso to Order VI Rule 17 of the Code of Civil Procedure, 1908 came into play and the Plaintiffs failed to satisfy the test of due diligence.
3. Mr. Salunke, learned Counsel for the Petitioners, submitted that, by the proposed amendment, neither the nature and character of the suit, nor that of

the suit property would change. The Petitioner intended to carry out amendment so as to make the record correct. It was submitted that, no prejudice would be caused to the Defendants as the identity of the suit property does not change. In this view of the matter, the learned Civil Judge took a very rigid and hyper-technical view of the matter, submitted Mr. Salunke.

4. In opposition to this, Mr. Suryawanshi, learned Counsel for the Respondents/Defendants, supported the impugned order. It was submitted that the learned Civil Judge has recorded categorical findings that the Plaintiffs were aware of the change in the Gat number and Survey No., even prior to the institution of the suit and, thus, there was no reason for the Plaintiffs not to seek amendment before the commencement of the trial. Since the Plaintiffs did not offer any satisfactory explanation to satisfy the test of due diligence, the learned Civil Judge was justified in rejecting the application for amendment, submitted Mr. Suryawanshi.

5. In the plaint, the suit property was described as under :

Old Survey No.	Gat No.	Area	Assessment	Type
29/1 C 2+4	242/1/1	0-62-0	8-35	Rice

6. By the proposed amendment, the Petitioners – Plaintiffs sought to furnish the following description of the suit property :

Old Survey No.	New Survey No.	Old Gat No.	New Gat No.	Area	Assessment	Type
29/1/C/2/4	29/1/ and 29/2/A	242/A 242/B	241/1	1.03.00 out of 0.62.00	13.05	Rice

7. Evidently, the old survey number and the area of the suit property remain unaltered. What the Plaintiffs proposed to amend was, the new Gat number and the assessment of the suit property and the manner which the record of rights came to be corrected. The proposed amendment does not change the nature and the character of the suit property. Nor the identity of the suit property is sought to be altered.

8. The correction of an inadvertent or clerical error in the description of the suit property, which neither changes the nature and character of the suit, nor that of the suit property or otherwise causes prejudice to the Defendants, cannot be said to be impermissible if an application is filed after the commencement of the trial. In these circumstances, the principles which govern the amendment after the commencement of trial, in view of the proviso to Order VI Rule 17, could not have been readily imported.

9. A useful reference in this Context can be made to a judgment of the Supreme Court in the case of Varun Pahwa V/s. Renu Chaudhary¹, wherein the Supreme Court enunciated that the inadvertent mistake cannot be refused to be corrected when the mistake is apparent from the reading of the plaint.

¹ (2019) 15 SCC 628

The rules of procedure are handmaid of justice and cannot defeat the substantive rights of the parties. It is well settled that amendment in the pleadings cannot be refused merely because of some mistake, negligence, inadvertence or even infraction of the rules of procedure. The Court always gives leave to amend the pleadings even if a party is negligent or careless as the power to grant amendment of the pleadings is intended to serve the ends of justice and is not governed by any such narrow or technical limitations.

10. A profitable reference can also be made to the decision of the Supreme Court in the case of Usha Devi V/s. Rijwan Ahmad² wherein in a somewhat similar fact-situation, correction in the description of the suit property was allowed to be carried out by way of amendment.

11. At this stage, it must be recorded that, learned Counsel for the Petitioners – Plaintiffs, on instructions, submits that the Petitioners – Plaintiffs would not adduce any evidence in the event the amendment is allowed, and would proceed with the final hearing of the suit. Nonetheless, the elements of delay and inconvenience to the Defendant No.1 can be taken care of by awarding costs. I am, therefore, inclined to allow the Petition.

12. Hence, the following order :

ORDER

- (i) The Writ Petition stands allowed.

² AIR 2008 SC 1147

(ii) The impugned order stands quashed and set aside.

(iii) The application (Exh.139) stands allowed and the Petitioners are permitted to carry out amendment in accordance with the proposed amendment as indicated in the application (Exh.139 – Exh. D to the Petition), within a period of one week from the date of uploading of this order, subject to the following conditions :

(a) The Petitioners shall not be entitled to adduce evidence post amendment.

(b) The Petitioners shall pay costs of Rs.10,000/- to the Defendants No.1, which shall be deposited in the trial Court, within a period of one week from the date of uploading of this order.

(c) The Petitioners – Plaintiffs shall not seek any adjournment for final hearing of the suit.

(d) Defendant No.1 is at liberty to file additional written statement, if any, within a period of one week of the service of the amended copy of the plaint.

(iv) Rule is made absolute to the aforesaid extent.

(N.J.JAMADAR, J.)