



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.809 OF 2026**

Late Bhagwan Kisan Bhairat (deceased) through his legal heirs Pramila Bhagwan Bahirat and Ors.	...	Petitioners
versus		
Panacea Builders and Ors.	...	Respondents

Mr. Sagar Bhairange, for Petitioners.

CORAM: N.J.JAMADAR, J.

DATE : 23 FEBRUARY 2026

P.C.

1. Heard the learned Counsel for the Petitioners.
2. The challenge in this Petition is to an order dated 8 October 2025 passed by the learned Additional Judge, Court of Small Causes, Pune, whereby the application preferred by the Petitioners – Plaintiffs in the plaint came to be partly rejected with regard to the substantive averments and additional prayers in the plaint, while allowing the application to the extent of corrections of the typographical errors.
3. Learned Counsel for the Petitioners submitted that the proposed amendment is necessary for deciding the real question in controversy between the parties.
4. Learned Judge was persuaded to reject the application with regard to the substantive amendments as the Plaintiffs failed to satisfy the test of due

diligence under the proviso to Order 6 Rule 17 of the Code of Civil Procedure, 1908, as the trial has commenced and the Plaintiffs have filed additional affidavit in lieu of examination in chief. The learned Judge further noted that this was the fifth application for amendment in the plaint.

5. In the context of the aforesaid reasons, this Court was anxious to consider the reasons ascribed in the application seeking amendment in the plaint. In paragraph No.2 of the application, the only reason that has been ascribed is that a new Advocate came to be appointed and he realized that necessary corrections were required to be made in the plaint, there were typographical errors and some additional reliefs were required to be sought in the plaint.

6. There is absolutely no reason which could satisfy the test of due diligence. As noted by the learned trial Judge, the Plaintiffs had sought amendment on the 5th occasion. Thus, it was even more necessary for the Plaintiffs to satisfy the Court as to why the amendment could not have been sought before the commencement of the trial. The decision of the Supreme Court in the case of **Vidyabai and Ors. V/s. Padmalatha and Anr.**¹ squarely applies to the facts of the case at hand.

7. The learned Judge, Court of Small Causes, Pune, has not committed any error in rejecting the application for carrying out substantive amendments

1 (2009) 2 SCC 409

in the plaint. Hence, the Writ Petition does not deserve to be entertained.

8. The Writ Petition, thus, stands dismissed.

(N.J.JAMADAR, J.)