



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,  
NAGPUR BENCH, NAGPUR.**

**WRIT PETITION NO. 427 OF 2025**

Devanand Laxmanrao Khobragade, Age: 60 years, Occ:  
Business, R/o Near Dr.Zade's Hospital, Jatpura Ward No.3,  
Chandrapur – 442402.

**PETITIONER**

**VERSUS**

1. Atul Digambarrao Chillarwar, Aged 40 yrs., Occ:  
Business, R/o Bazar Ward, Chandrapur, Tahsil and  
District Chandrapur (MS).
2. Jayant Ganpatrao Bongirwar, Aged 50 yrs., Occ:  
Business, R/o Bhanapeth Ward, Chandrapur,  
Tahsil and District Chandrapur.

**RESPONDENTS**

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Shri Apurv De, counsel for the petitioner.  
Shri H.V. Thakur, counsel for the respondents.

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**CORAM : PRAFULLA S. KHUBALKAR, J.**

**DATE : FEBRUARY 18, 2026**

**ORAL JUDGMENT**

**RULE.** Rule made returnable forthwith. Heard finally with consent of the learned counsel for the parties.

2. This petition raises exception to the order dated 04.11.2024 passed by the trial Court allowing the application for amendment of plaint.

3. The petitioner is the original defendant no.1 in the suit filed by the respondents seeking specific performance of contract. The defendant no.1 had filed his written statement and after the issues were framed, the plaintiffs filed an application under Order VI Rule 17 of the Code of Civil Procedure, 1908 seeking amendment to the plaint so as to incorporate various pleadings including an alternate relief. The application was opposed by the defendant No.1 and it came to be allowed by order dated 04.11.2024, which is subjected to challenge by way of instant petition.

4. Shri Apurv De, learned counsel for the petitioner submitted that the plaintiffs have filed the application for amendment after a period of about ten years after filing of the written statement by the defendants and in view of the conduct of the plaintiffs in sleeping over their rights, the application deserved to be rejected. He also submitted that by way of proposed amendment, the plaintiffs have attempted to fill up the lacunae and the proposed amendment with respect to alternate claim for money decree is an attempt to change the nature of the suit.

5. Shri H.V. Thakur, learned counsel for the respondents strenuously opposed the petition and submitted that mere delay in filing the application cannot be a reason for rejecting the same. He also submitted that the amendment application is filed before commencement of trial and the proposed amendment has to be allowed in view of proviso to Section 22(2) of the Specific Relief Act, 1963. He therefore supported the impugned order.

6. While considering the rival contentions, it has to be seen that although the application for amendment of plaint was filed after a period of about ten years after filing of written statement by the defendants, it is filed before commencement of the trial. By way of proposed amendment, the plaintiffs have sought to incorporate certain pleadings with respect to the controversy involved and by way of alternate relief, the relief of refund of money is sought to be claimed. In view of proviso to Section 22(2) of the Specific Relief Act, 1963, the plaintiff in a suit for specific performance

of contract is entitled to claim the relief of refund of money as an alternate relief and the amendment in that regard is also required to be allowed. It has also to be seen that the proposed amendment for incorporating the pleadings and even the prayer clause for seeking alternate relief cannot be considered to be changing the nature of the suit. Hence, merely because the amendment application was filed after ten years of filing of the written statement by the defendants, the same cannot be disallowed, particularly when the trial in the suit has not commenced.

7. A perusal of the impugned order shows that the trial Court has given due consideration to all the factual and legal aspects and by considering the position of law laid down by the Hon'ble Supreme Court in *Life Insurance Corporation of India Versus Sanjeev Builders Private Limited & Another* [AIR 2022 SC 4256] has passed a well reasoned order. The reasons recorded by the trial Court do not at all appear to be perverse requiring any indulgence of this Court. Hence, the writ petition deserves to be dismissed.

8. The writ petition is accordingly dismissed with no order as to costs. Rule stands discharged.

(PRAFULLA S. KHUBALKAR, J.)