



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

WRIT PETITION NO. 3269 OF 2025

1. Premila Anandrao Tavade, Aged 46 years,
Occ: Agriculturist, R/o Arvi, Post Arvi,
Tahsil Rajura, District Chandrapur.
2. Alka Janardan Raipure, Aged 50 years,
Occ: Agriculturist, R/o Virur Station, Post Virur
Station, Tahsil Rajura, District Chandrapur.
3. Bharat Lataru Jawalekar, Aged 38 years,
Occ: Agriculturist, R/o Arvi, Post Arvi,
Tashil Rajura, District Chandrapur.

PETITIONERS

VERSUS

1. Nandkishor Vitthalrao Ragit, Aged 53 years,
Occ: Advocate, R/o Behind State Bank of India,
Rajura, Tahsil Rajura, District Chandrapur.
2. Devanand Lataru Jawalekar, Aged 53 years,
Occ: Agriculturist, R/o Yergawan, Tah. Rajura,
District Chandrapur.

RESPONDENTS

Shri N.R. Bhishikar, counsel for the petitioners.
Shri S.S. Bhalerao, counsel for the respondent no.1.
None for the respondent no.2, though served.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : APRIL 22, 2026

ORAL JUDGMENT

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

2. By this petition, the petitioners have challenged the order dated 02.08.2024 passed by the trial Court rejecting the application under Order VI Rule 17 of the Code of Civil Procedure, 1908 (for short, 'the Code') seeking amendment of the written statement.

3. The petitioners are the original defendants in the suit bearing Regular Civil Suit no.40 of 2019 filed by the respondent no.1 seeking

specific performance of contract and possession of the agricultural land described in the plaint. The petitioners are the legal representatives of the original defendant who has expired on 20.04.2021. After the petitioners were brought on record as the legal representatives of the original defendant, at the stage of their evidence, they filed an application, Exhibit 34, under Order VI Rule 17 of the Code and prayed for amendment to incorporate certain pleadings in their written statement. The application was opposed by the original plaintiff and by order dated 02.08.2024, the trial Court has rejected the application, which is subjected to challenge by way of instant petition.

4. It is the contention of the respondent no.1 that the application filed by the defendants deserved to be rejected since the same was filed at the stage of evidence without demonstrating any due diligence on the part of the defendants. The petition is also opposed by contending that in the garb of amendment, the defendants intent to introduce new pleadings and the same is not permissible.

5. Shri N.R. Bhishikar, learned counsel for the petitioners, however, primarily submitted that the impugned order passed by the trial Court is cryptic and is passed by the trial Court without recording any reasons for rejecting the application. He submitted that the trial Court has simply referred to certain facts that the original defendant has filed the written statement and the legal representatives have stepped into the shoes of the deceased and that they cannot take contrary stand. Thereafter, by

referring to the judgment of the Chhattisgarh High Court in ***Nankidia Versus Vijay*** [SA. 379 of 2012], decided on 14.06.2022, the application is held to be not tenable. It is therefore submitted that the trial Court has not at all recorded any reasons for rejecting the application.

6. A perusal of the impugned order reveals that the trial Court has not recorded any reasons for rejecting the application neither the vital issue about due diligence is considered. By way of the application for amendment, the defendants have proposed to incorporate certain pleadings which are said to be amplification of their evidence and therefore the proposed amendment being vital for the defendants' case ought to have been decided by considering all the relevant factors. The arguments of the learned counsel for the petitioners that the amendment is necessary for deciding the actual controversy involved in the suit since the defendants want to incorporate pleadings to clarify and amplify their defence were required to be considered by the trial Court. The order rejecting the amendment application does not consider the contentions of either parties and it is on the face of it, unreasoned, warranting interference.

7. Having regard to the above mentioned factual and legal aspects, I am of the firm opinion that the application for amendment filed by the defendants was required to be decided by considering all the relevant aspects for deciding the application under Order VI Rule 17 of the Code. The matter therefore needs to be remanded to the trial Court for deciding the application at Exhibit 34 afresh. Hence, the following order is passed:-

- I. The writ petition is partly allowed.
 - II. The order dated 02.08.2024 passed by the trial Court rejecting the application for amendment at Exhibit 34 in Regular Civil Suit No.40 of 2019 is quashed and set aside.
 - III. The matter is remanded to the trial Court for deciding the application at Exhibit 34 in Regular Civil Suit No.40 of 2019 afresh after giving due opportunity to the parties concerned.
8. The writ petition is disposed of in aforesaid terms with no order as to costs. Rule accordingly.

(PRAFULLA S. KHUBALKAR, J.)