



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

**WRIT PETITION NO. 4352 OF 2025**

1. Surchand Narayan Shende (dead) through L.R's.
- 1(1) Satyabhama Surchand Shende, aged 68 years, Occ: Household, R/o Mendha, Post Pohra, Tahsil Lakhni, District Bhandara.
- 1(2) Kamlesh Surchand Shende, aged 51 years, Occ: Labour, R/o Mendha, Post Pohra, Tahsil Lakhni, Dist. Bhandara.
- 1(3) Shailesh Surchand Shende, aged 37 years, Occ: Labour, R/o Mendha, Post Pohra, Tahsil Lakhni, Dist. Bhandara.
- 1(4) Nadir Manoj Kanhekar, Aged 48 years, Occ: Household, R/o Saloti, Tahsil Lakhni, District Bhandara.
- 1(5) Ujwala Kailash Khobragade, aged 41 years, Occ: Labour, R/o Nanded, Tahsil Lakhandur, District Bhandara.
- 1(6) Madhuri Surchand Shende, aged 38 years, Occ: Labour, R/o Mendha, Post Pohra, Tahsil Lakhni, Dist. Bhandara.
2. Amarsingh Chunnilal Shende, aged 46 years, Occ: Labour, R/o Mendha, Post Pohra, Tahsil Lakhni, Dist. Bhandara.
3. Premsingh Chunnilal Shende, aged 46 years, Occ: Service, R/o C/o Pawan Jambhulkar, Plot No.407, Galli No.3, Sugadnagar, Jaripatka, Nagpur.
4. Jindabad Chunnilal Shende, aged 46 years, Occ: Labour, R/o Mendha, Post Pohra, Tahsil Lakhni, Dist. Bhandara.
5. Nilima Ravindra Damle, aged 36 years, Occ: Labour, R/o Ghodezari, Post Kolri, Tahsil Lakhni, Dist. Bhandara.
6. Seema Kanakmuni Damle, aged 38 years, Occ: Labour, R/o Ghodezari, Post Kolri (Patachi), Tahsil Lakhni, District Bhandara.
7. Rama Vilas Ramteke, aged 41 years, Occ: Labour, R/o C/o Vijay Meshram, Ashok Nagar, Ambedkar Ward, Bhandara, Tahsil and District Bhandara.
8. Anmol Duryodhan Khobragade, aged 40 years, Occ: Service, R/o Sarthi, Post Sakoli, Tah. Sakoli, Dist. Bhandara.

**PETITIONERS**

**VERSUS**

Manda Moreshwar Kamble, aged 63 years, Occ: Household, R/o Ambedkar Ward, Behind Zilla Parishad, Ganeshpur, Bhandara, Tahsil and District Bhandara.

**RESPONDENT**

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Shri S.S. Deshpande, counsel for the petitioners.  
Shri H.A. Khedikar, counsel for the respondent.

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

**DATE : JANUARY 28, 2026**

**ORAL JUDGMENT**

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

2. By this petition, the petitioners have challenged the order dated 16.11.2024 passed by the trial Court on an application filed by the petitioners at Exhibit 94 for amendment of the written statement.

3. The petitioners are the original defendants in Regular Civil Suit No.47 of 2018 filed by the respondent seeking partition and separate possession. The defendants have appeared in the suit and filed their written statement and the suit proceeded at the stage of evidence. After three witnesses were examined on behalf of the defendants, an application under Order VI Rule 17 of the Code of Civil Procedure, 1908 (for short, 'the Code') was filed by them seeking amendment of the written statement. The application was opposed by the plaintiff and it came to be rejected by order dated 16.11.2024, which is subjected to challenge by way of instant petition.

4. The learned counsel for the petitioners submitted that the petitioners/defendants proposed to amend the written statement only to incorporate a clarification about the name of plaintiff-respondent 'Manda' based on a document of extract of birth-death register which was received on

24.05.2024. He submitted that the amendment is necessary for complete and effective adjudication of the controversy involved in the suit and no prejudice would be caused to the respondent in case the amendment application is allowed.

5. Opposing the petition, the learned counsel for the respondent submitted that the amendment application is filed after the evidence of parties is almost over and the application did not disclose due diligence and is rightly rejected by the trial Court.

6. While considering the controversy, it has to be seen that the application for amendment of written statement is filed at a stage when the affidavit of examination-in-chief of fourth witness of the defendants was filed on record. A perusal of the application for amendment shows that there is nothing to show any reason as to why the proposed pleadings were not incorporated in the written statement. Since the amendment application is filed after the evidence is almost over, the defendants were bound to demonstrate due diligence on their part. While passing the impugned order, the trial Court has categorically observed that there are no pleadings in the written statement about the contentions sought to be raised by way of proposed amendment regarding clarification of the name of plaintiff 'Manda' and 'Tani'. As such, it is observed that by way of proposed amendment, the defendants are attempting to introduce a new case that too after the evidence is almost complete.

7. The position of law is settled that the amendment application filed after the commencement of trial without demonstrating due diligence need not be entertained in view of proviso to Order VI Rule 17 of the Code. In the impugned order, the trial Court has given due consideration to all the relevant factual and legal aspects and the impugned order is not shown to be perverse on any count. Hence, no indulgence is warranted with the impugned order. The writ petition is accordingly dismissed with no order as to costs. Rule stands discharged.

**(PRAFULLA S. KHUBALKAR, J.)**

APTE