



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.5114 OF 2025

PETITIONER:

(Org. Defendant Nos.1 & 3)

- 1) Shri Prashant S/o Murlidhar Rathi,
Aged about-62 years, Occu. Business.
- 2) Shri Prkalp S/o Murlidhar Rathi,
Aged about 56 years, Occu. Business,
Both R/o Buty Plot, Amravati, Tahsil
and Dist. Amravati

...VERSUS...

RESPONDENTS

(Org. Plaintiffs)

- 1) Deepak s/o Premnarayan Chourasia,
Aged about 57 years, Occu.
Unemployed.
- 2) Aditya s/o Praveen Chourasia, Aged
about 25 years, Occu. Unemployed.
- 3) Saket s/o Deepak Chourasia, Aged
about 31 years, Occu. Business.
- 4) Praveen s/o Premnarayan Chourasia,
Aged about 53 years, Occu. Business,
All R/o Utkarsha Shikar Apartments,
Mount Road Extension, Sadar, Nagpur

Mr. V.V. Bhangde, Advocate for Petitioners.
Mr. R.S. Thakre, Advocate for Respondents.

CORAM : PRAFULLA S. KHUBALKAR, J.
RESERVED ON : 29/01/2026
PRONOUNCED ON : 09/03/2026

JUDGMENT :

2

1. This writ petition was extensively heard at the stage of admission and having considered the contentions canvassed on behalf of the petitioners as well as the respondents, the matter is admitted and taken up for final disposal.

2. The petitioners have assailed the order dated 01.04.2025 passed by the Court of Special Judge for Senior Citizens, Nagpur in Civil Revision Application No.27/2024 thereby, rejecting the Revision Application challenging the Order passed by the Trial Court on the application for amendment and resultantly, the application for amendment of written statement stood rejected.

3. The controversy in the instant petition arises out of the suit bearing Regular Civil Suit No.194/2011 for recovery of possession, damages and mesne profits filed by the respondents herein against the petitioners. The suit was contested on merits by the defendants. During the course of evidence when cross-examination of the plaintiff No.3 was in progress, the defendants filed an application (Exh.80) for amendment to the written statement. The application was strongly opposed by the plaintiffs and by an Order dated 08.03.2021 passed by the Small Causes Court, Nagpur the said application came to be rejected. Feeling aggrieved by the order passed by the Small Causes Court, Nagpur, the

original defendants filed a civil revision application under Section 34(4) of the Maharashtra Rent Control Act, 1999 (for short “the Act”), before the District Judge, Nagpur, which also came to be rejected by the Judgment and Order dated 01.04.2025. The original defendants have therefore, filed the instant petition challenging the rejection of their application for amendment in the written statement.

4. Advocate Mr. V.V. Bhangde, learned counsel for the petitioner submitted that by way of the proposed amendment, the defendants wanted to place on record certain vital events which are subsequent developments and have a bearing on the controversy involved in the suit. These are the developments pertaining to the judgment dated 26.03.2012 passed by the Hon'ble Supreme Court of India and the same was necessary to be permitted to be incorporated by way of amendment in the written statement.

5. By placing reliance on the judgment of the Hon'ble Supreme Court of India in the matter of *Vidyabai and Others Vs. Padmalatha and Another* reported in *(2009) 2 Supreme Court Cases 409* and the judgment in the matter of *Nitaben Dinesh Patel Vs. Dinesh Dahyabhai Patel* reported in *(2021) 20 Supreme Court Cases 210*, he submitted that the amendments to the pleadings can be permitted at any stage of

the suit and the most important criteria is requirement of the amendment for determining the real question in controversy between the parties. He submitted that in view of the position of law as laid down in these judgments, when the Court finds that the amendment is necessary for the purpose of determining the real question in controversy between the parties, the application for amendment can be allowed even after the commencement of trial. He further submitted that the trial Court as well as the Revisional Court failed to consider the legal position with respect to the rights of the parties to amend their pleadings and therefore, the impugned order is unsustainable in law.

6. Per contra, Advocate Mr. Thakre, learned counsel for the respondent strongly opposed the petition and submitted that the application for amendment of the written statement deserves to be rejected being filed after the commencement of the trial without demonstrating any due-diligence on the part of the defendants. He also submitted that the proposed amendment does not at all mention any subsequent events and that the attempt of the defendant to bring on record the contentions about the judgment of the Hon'ble Supreme Court in the garb of an amendment application is an attempt to prolong the litigation. In support of his submissions, he placed reliance on the

judgment of the Hon'ble Supreme Court in the matter of *Ram Nibas Gagar (Dead) by Lrs. Vs. Debojyoti Das and Others* reported in *AIR 2003 Supreme Court 632* and submitted that in absence of any convincing explanation spelt out in the amendment application, the application for amendment deserves to be rejected.

7. In the backdrop of these rival contentions, the controversy is taken up for consideration. It has to be noted that the civil suit has been filed by the respondents seeking possession of the suit property and damages. After the commencement of trial, when the evidence of the plaintiff No.3 was in progress, the defendants filed an application at Exh.80 seeking amendment of the written statement. In the said application, it is mentioned that the proposed amendments are with respect to the developments relating to the firms about which the pleadings are already mentioned in the written statement. By way of the proposed amendment, the defendants want to place on record certain aspects with respect to the litigation in between the parties including the judgment of Hon'ble Supreme Court dated 26.03.2012 and so also about an arbitration award dated 05.06.2018.

8. Pertinent to note that the written statement in the suit was filed on 27.07.2012 and the application for amendment to the written

statement is filed on 07.10.2019. The application for amendment does not at all mention any reasons explaining why the contents of the proposed amendment were not incorporated in the written statement earlier, neither does it mention any reasons for not filing the amendment, prior to commencement of the trial. Undisputedly, the trial in the suit has commenced and the plaintiff's witness is under cross-examination. Thus, it is clear that in absence of any due diligence being demonstrated, the defendants are attempting to amend the written statement after commencement of the trial.

9. By way of the proposed amendment, the defendants seek to add contentions about the judgments and orders/awards passed in the Arbitration Proceedings, which can be placed on record and relied upon even during the evidence of the defendants. Further, the events mentioned in the proposed amendment do not appear to be subsequent events and could have been averred earlier in the pleadings. There is no reason to show that the proposed amendment could not have been filed before the commencement of the evidence of plaintiffs' witness.

10. The position of law as laid down by the Hon'ble Supreme Court of India in the matter of Vidyabai (supra) and Nitaben (supra), is not disputed as the position is well settled that the subsequent events

can be brought on record by way of an amendment, even after the commencement of the trial, if it is found that the amendment is necessary for the purposes of determining the real question in controversy between the parties. However, in the instant case, the amendment application filed after commencement of the trial, does not relate with respect to any subsequent developments. Pertinent to note the defendants is not prohibited from bringing on record the judgments and orders passed by the Courts, during the course of its evidence.

11. Pertinent to note that the amendment application is filed on 07.10.2019, at the stage of cross-examination of the plaintiff No.3 and thus, in view of the proviso to the Order VI Rule 17 of the CPC, the defendants were required to establish the due diligence by stating the relevant circumstances in the application itself. In absence of due diligence, there is an embargo on exercise of Courts jurisdiction. The trial Court as well as Revisional Court has given due consideration to these vital aspects and has rightly rejected the application in absence of any due diligence being demonstrated by the defendants.

12. It has also to be noted that the defendants are entitled to place on record the judgments and orders passed by the Courts and lead evidence in support thereof. The judgments and orders of the Court can

also be accepted on its proper proof during the evidence of the defendants. As such, the proposed amendment cannot be considered to be necessary for deciding the real controversy involved in the suit. Consequently, the reliance placed by the counsel for the petitioner on the legal position laid down in the above mentioned judgment of the Hon'ble Supreme Court is not of assistance to the petitioner.

13. Perusal of the order passed by the Trial Court as well as the Revisional Court, show that the due consideration is given to the relevant factual and legal aspects and considering the proviso to Order VI Rule 17 of the CPC, the application for amendment is rejected. On perusal of the reasons recorded by the Courts, I find the orders to be well reasoned, showing no perversity requiring interference.

14. In view of the above mentioned factual and legal aspects, no indulgence is warranted under Article 227 of the Constitution of India with the impugned orders and accordingly, the writ petition is **dismissed** with no order as to costs.

(PRAFULLA S. KHUBALKAR, J.)

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