



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

WRIT PETITION NO.5143 OF 2025

JAVED ATHER KHAN S/O AMANULLAHKHAN AND ANOTHER
VERSUS
AYYUB KHAN S/O IBRAHIM KHAN

*Office Notes, Office Memoranda of
Coram, Appearances, Court's
orders or directions and Registrar's
orders*

Court's or Judge's orders

Mr. C.F. Bhagwani, Advocate for Petitioners.
Mr. A.S. Shukla, Advocate for Respondent.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATED : 27th JANUARY 2026

PER COURT :-

1. Heard learned Advocate for the petitioners.
2. The petitioners' challenge is to the order dated 20.01.2025, passed by 2nd Joint Civil Judge Junior Division, Nagpur, in Regular Civil Suit No.1144 of 2021, allowing the application for amendment filed by the respondent/plaintiff.
3. The petitioners are original defendants in the suit filed by the respondent seeking declaration, mandatory and permanent injunction. In the suit, the defendants have filed their written statement on 19.11.2024. Even before the evidence started, the plaintiff filed an application for amendment *vide* Exhibit 30, seeking

amendment of plaint to incorporate certain subsequent events related to construction and status of the property. The application came to be allowed by the impugned order, which is subjected to challenge by way of instant petition.

4. Learned Advocate for the petitioners submits that the application for amendment was filed after the issues were framed and therefore, the application ought not to have been entertained.

5. A perusal of the impugned order shows that the trial court has allowed the application by considering the fact that the plaintiff proposes to place on record the subsequent events, which are necessary for deciding the actual controversy in between the parties. Apart from this, it has to be noted that the application for amendment was filed on 19.11.2024, when the evidence on affidavit was not yet filed. It is pointed out that the evidence on affidavit of first witness was filed on 04.08.2025 and as such, it is clear that the amendment application was filed before the commencement of trial.

6. In view of position of law laid down by the Hon'ble Supreme Court in the case of *Life Insurance Corporation of India Vs. Sanjeev Builders Private Ltd. and Another*, [2022 SCC OnLine SC 1128], it is settled that an amendment which is necessary for deciding

the actual controversy involved in the suit has to be liberally allowed. Thus, the instant application was liable to be allowed, as rightly directed by the impugned order. The impugned order does not appear to be perverse. In view of this, no interference is warranted with the impugned order. Hence, the writ petition is dismissed with no order as to costs.

(PRAFULLA S. KHUBALKAR, J.)

asd