



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

WRIT PETITION NO.5935 OF 2025

The State of Maharashtra and Another

Vs.

M/s. Jai Bambleshwari Developers, Through its Partners

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Ms. P.T. Joshi, AGP for the Petitioner.

Mr. Pramod Bapat, Advocate for the Respondent.

CORAM: PRAFULLA S. KHUBALKAR, J.

DATED : 06th APRIL, 2026

1. Heard learned AGP for petitioners and learned counsel for the respondent.
2. Petitioners challenge is to the Order dated 08.01.2025 passed by the Trial Court in Regular Civil Suit No.30/2015 by which the application for amendment of pleadings in written statement under Order VI Rule 17 of CPC, came to be rejected.
3. Petitioners are the original defendants in the suit which was filed by the plaintiff-respondent herein seeking declaration and injunction. The defendants appeared in the suit and filed their written statement on 23.06.2015. Thereafter, the suit proceeded for evidence. After the plaintiff concluded the final arguments, the defendants filed an application for amendment of pleadings in the written statement (Exh.81) on 08.05.2024, seeking to incorporate certain additional contentions in the nature of specific pleadings. The said application came to be rejected by order dated 08.01.2025, which is challenged by way of the instant petition.

4. Learned AGP for the petitioners vehemently submits that the original plaintiff has suppressed material facts and it is necessary to bring on record the contentions about the earlier litigation and about the suit being barred by limitation as well as about the issue of constructive res-judicata. It is therefore, contended that the amendment application ought to have been allowed. By inviting my attention to the pleadings in the written statement, it is submitted that the contentions regarding the conduct of plaintiff are already stated in the written statement and therefore, the proposed amendment ought to have been allowed.

5. Per contra, learned counsel for the respondent opposed the petition and submitted that the amendment application was filed without demonstrating due diligence and considering the proviso to Order VI Rule 17 of the CPC, the amendment deserved to be rejected.

6. While considering the controversy, it has to be noted that the application for amendment was filed after the commencement of the final arguments in the suit. A perusal of the application for amendment shows that there is no explanation as to why the proposed amendment was not incorporated in the written statement. The contentions of the petitioners/ original defendants about the suppression of facts and the suit being barred by limitation or constructive res-judicata can be raised on the basis of existing pleadings and evidence, if brought on record.

7. It has to be seen that the application is silent on the aspect of due diligence and the application being filed at the stage of final arguments, was rejected on that ground. A perusal of the impugned order shows that the Court has given due

consideration to the aspect of due diligence and has recorded its observations that the application for amendment does not show any due diligence and by considering the legal position laid down in the matter of *Vidhyabai and Others Vs. Padmalatha and Another* reported in *(2009) 2 SCC 409*, has concluded that the amendment application deserves to be rejected. It has also to be noted that the proposed amendment is not found to be necessary for deciding the real controversy involved in the suit.

8. A perusal of the impugned order shows that the Trial Court has passed a well reasoned order, giving due consideration to the relevant factual and legal aspects. The impugned order does not show any perversity warranting interference under Article 227 of the Constitution of India.

9. In view of above, the writ petition is **dismissed** with no order as to costs.

(PRAFULLA S. KHUBALKAR, J.)

Privel