



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

WRIT PETITION NO. 6668 OF 2025

Pramod Mangilal Chawan, Aged 62 yrs. Occ: Business,
R/o Plot no.7, Mire Layout, Nagpur.

PETITIONER

VERSUS

Anjanabai Manikrao Ughade, Aged 66 yrs. Occ: Household,
R/o Plot no.7, Mire Layout, Nagpur.

RESPONDENT

Shri A.P. Mishra, counsel for the petitioner.
Shri R.M. Sharma, counsel for the respondent.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : MARCH 10, 2026

ORAL JUDGMENT

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

2. By this petition, the petitioner challenges the order dated 22.10.2024 passed by the trial Court allowing the application for amendment of plaint.

3. The controversy arises out of Regular Civil Suit no.100 of 2021 filed by the respondent for eviction and possession under Section 16(1)(g) of the Maharashtra Rent Control Act, 1999. The petitioner is the original defendant, who appeared in the said suit and filed the written statement and is contesting the suit. During pendency of the suit, at the stage of evidence, the plaintiff filed an application at Exhibit 25 for amendment of plaint for clarifying the details of the suit property. The application was opposed by the defendant, however by order dated 22.10.2024, the trial Court allowed the application, which is subjected to challenge by way of instant petition.

4. Shri A.P. Mishra, learned counsel for the petitioner submitted that the trial Court has allowed the application for amendment which is undisputedly filed after commencement of the trial. He submitted that the plaintiff failed to demonstrate any due diligence and the proposed amendment is an attempt to change the nature of the suit. He also submitted that the application at Exhibit 25 is filed to nullify the effect of cross-examination of the plaintiff's witness as it was revealed during cross-examination that there are two different plots bearing Plot no.7 and Plot no.7B. He therefore submitted that the proposed amendment is not necessary for deciding the controversy which was initially raised in the plaint. In support of his submissions, he placed reliance on the judgment of the Hon'ble Supreme Court in *Vidyabai & Others Versus Padmalatha & Another* [(2009) 2 SCC 409] and the judgment of the Principal Seat of this Court in *Sandhya Shekhar Zanjare Versus Shekhar Suresh Zanjare* [2025(5) Mh.L.J. 622].

5. Shri R.M. Sharma, learned counsel for the respondent vehemently opposed the petition and submitted that the petitioner has suppressed the material fact that after the amendment application is allowed, he has carried out consequential amendment so also the evidence of second witness of the plaintiff is also recorded and thus there is acquiescence on his part. Apart from this, he submitted that the application for amendment is clarificatory in nature since the respondent-plaintiff has proposed to mention the details of the plot in question as 'Plot no.7B' in place of 'Plot no.7' and 'House no.2580/7/B' in place of 'House no.2580'. He therefore submitted that neither the amendment changes the nature of

the suit nor it could cause any prejudice to the other side. He also submitted that the amendment is necessary for proper identification of the suit premises and necessary for complete and effective adjudication of the controversy. In support of his submissions, he placed reliance on the judgment of the Hon'ble Supreme Court in *Sajjan Kumar Versus Ram Kishan* [(2005) 13 SCC 89] and the judgment of the Principal Seat of this Court in *Vitthal Mhaskuy Mandhre Versus Mugutrao Vishnu Sanas (since deceased) through Legal Heirs* [2019(2) Mh.L.J. 769]. By pointing out the legal position from this judgment, he submitted that while dealing with the landlord and tenant dispute, the amendment to place on record correct description of the property was allowed by this Court by relying upon the judgment of the Hon'ble Supreme Court in *Sajjan Kumar* (supra).

6. While considering the rival contentions, it has to be noted that by way of proposed amendment, the plaintiff only seeks to mention the correct description of the suit property. Although the application for amendment is filed after commencement of trial, it has to be noted that the provisions of law permits the amendment to be allowed at any stage of the suit. Considering the nature of amendment sought to be made which is clearly clarificatory in nature, it cannot be said that the proposed amendment changes the nature of the suit causing any prejudice to the defendant. Even while considering the proviso to Order VI Rule 17 of the Code of Civil Procedure, 1908, it has to be noted that an amendment after commencement of trial can be allowed if the Court comes to a conclusion that despite due diligence the parties could not

have raised the amendment before commencement of trial. In the instant matter, the need to clarify the suit property becomes essential after the cross-examination of the plaintiff's second witness. In view of this, the trial Court has specifically recorded that even after considering the proviso to Order VI Rule 17 of the Code of Civil Procedure, 1908, the amendment is required to be allowed. Thus, the trial Court has consciously allowed the amendment by considering the proviso to Order VI Rule 17. It is beneficial to refer to the position of law laid down in paragraph 5 of the judgment by the Hon'ble Supreme Court in ***Sajjan Kumar*** (supra):-

“5. Having heard the learned counsel for the parties, we are satisfied that the appeal deserves to be allowed as the trial court, while rejecting the prayer for amendment has failed to exercise the jurisdiction vested in it by law and by the failure to so exercise it, has occasioned a possible failure of justice. Such an error committed by the trial court was liable to be corrected by the High Court in exercise of its supervisory jurisdiction, even if Section 115 CPC would not have been strictly applicable. It is true that the plaintiff-appellant ought to have been diligent in promptly seeking the amendment in the plaint at an early stage of the suit, more so when the error on the part of the plaintiff was pointed out by the defendant in the written statement itself. Still, we are of the opinion that the proposed amendment was necessary for the purpose of bringing to the fore the real question in controversy between the parties and the refusal to permit the amendment would create needless complications at the stage of execution in the event of the plaintiff-appellant succeeding in the suit.”

7. Having regard to the above mentioned factual and legal aspects involved in the instant petition, I am of the firm opinion that the view taken by the trial Court in allowing the application for amendment is justified and does not show any perversity warranting any interference under Article 227 of the Constitution of India. The writ petition is accordingly dismissed with no order as to costs. Rule stands discharged.

(PRAFULLA S. KHUBALKAR, J.)

APTE