



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

WRIT PETITION NO. 7341 OF 2025

Ashok Jodharam Anandani, Age: 62 years, Occ: Business,
Proprietor of M/s Sapna Footware, Having its place of
Business at House No.703, In Ward No.44, Old Bhandara
Road, Itwari, Nagpur Through his Power of Attorney
Thakur Jodharam Anandani.

PETITIONER

VERSUS

1. Sunil Kanhaiyalal Upadhyay, Age: 53 years, Occ:
Business, R/o Plot No.95, Central Avenue Road,
Near Agrasen Square, Gandhibagh, Nagpur.
2. Manoj Pukhraj Jain, Age: 51 years, Occ: Business,
R/o Plot No.135, Sudam Road, Itwari, Nagpur.

RESPONDENTS

Shri O.S. Harwani, counsel for the petitioner.
Shri R.M. Sharma, counsel for the respondents.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : FEBRUARY 13, 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 raises a challenge to the order dated
13.03.2025 passed by the Small Causes Court, Nagpur rejecting the
application under Order VI Rule 17 of the Code of Civil Procedure, 1908
(for short, 'the Code') for amendment of written statement as well as
affidavit of evidence.

3. The respondents had filed Regular Civil Suit No.11 of 2018 for ejectment and possession under Section 15, 16(1)(g) of the Maharashtra Rent Control Act, 1999 (for short, 'the Act of 1999') with respect to the shop blocks occupied by the petitioner. The petitioner/defendant in the suit had appeared and filed his written statement and after the stage of filing of the evidence on affidavit, an application at Exhibit 61 for amendment of his written statement as well as affidavit of evidence came to be filed by him. The plaintiffs opposed the application and by order dated 13.03.2025, the trial Court rejected the application, which order is subjected to challenge by way of instant petition.

4. The primary contention canvassed on behalf of the petitioner/defendant in the suit, is that he wanted to bring on record certain events which came to his knowledge during the cross-examination of the plaintiffs' witness and which are related to the other properties owned by the respondents/plaintiffs and the averments are thus relevant for deciding the controversy involved in the suit.

5. Opposing the petition, the learned counsel for the respondents submitted that the application for amendment filed after the commencement of the trial is not maintainable in view of proviso to Order VI Rule 17 of the Code and in absence of any due diligence, the amendment application deserved to be rejected.

6. While considering the controversy involved in the petition, it has to be seen that the application for amendment was filed by the petitioner/defendant after the evidence on affidavit of defendant's witness was placed on record. As such, undisputedly the application is filed after commencement of trial. Perusal of the application reveals that the defendant has stated that after filing his affidavit of evidence on 22.11.2024, certain facts came to his knowledge which are necessary for effective decision of the controversy and needs to be incorporated. However, a perusal of the proposed amendment shows that the defendant wants to place on record the details of the properties which were ready for sale during year 2016 when the landlords had purchased the suit property. It appears that the defendant wants to place on record the details of several properties which were available for sale only to show that the plaintiffs had other alternate premises. As such, although the defendant has stated that he got knowledge about other properties of the plaintiffs after the evidence on affidavit was filed, there is nothing in the application to demonstrate any due diligence on the part of the defendant for incorporating the proposed pleadings. None of the events as mentioned in the proposed amendment have occurred after the written statement was filed.

7. In the backdrop of the above mentioned factual and legal aspects, it is clear that the amendment application is filed by the defendant after the commencement of trial without demonstrating any due diligence on his part and it is an attempt to somehow prolong the litigation. The trial

Court has given due consideration to all the relevant aspects and by a reasoned order rejected the application for amendment. The proposed amendment does not appear necessary for deciding the controversy involved in the suit. The order passed by the trial Court appears to be a reasonable and plausible view. I do not find any perversity with the impugned order requiring any indulgence 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