



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

WRIT PETITION NO.3443/2026

Barulbai Manohar Zade and Ors. .VS. Vijay Chintamanrao Chafle and Ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. O. A. Ghare, Advocate for petitioners.
Mr. Nitin Jachak, Advocate for respondents.

CORAM : PRAFULLA S. KHUBALKAR, J
DATE : APRIL 27, 2026.

At the outset, learned counsel for petitioners seeks leave to substitute name of legal representatives of deceased respondent No.1, by carrying out necessary amendment.

2. Leave is granted. Necessary amendment be carried out forthwith.

3. Issue notice to the respondents.

4. Mr. Nitin Jachak, learned counsel appears for the respondents and waives service.

5. Heard learned counsel for the parties.

6. By this petition, the petitioners have challenged orders dated 03.05.2026, 29.07.2025 and 09.03.2026, passed below Exh.41, 50, 52 and 61 respectively, by the Appellate Court on the applications for amendment of the plaint, order seeking review of order dated 03.05.2025 and application for permission to lead the additional evidence.

7. The petitioners are original appellants in Regular Civil Appeal No.20/2022 filed by them challenging judgment and decree dated 28.07.2022 in Regular Civil Suit No.10/2012. During the

pendency of the appeal, the appellants filed an application for amendment of the plaint vide Exh.-41, which was opposed by the respondents. The Appellate Court passed an order dated 03.05.2025, directing that application at Exh.-41 shall be heard and decided along with the main appeal. Accordingly, the matter was posted for final arguments. The appellants then filed applications for review of the said order vide Exh.-50 and 52, which came to be rejected by order dated 29.07.2025.

8. In this background, the appellants filed another application vide Exh.-61, under Order XLI Rule 27 of the Civil Procedure Code 1908, for permission to lead additional evidence, on which the Appellate Court passed an order that the application shall be decided at the time of final hearing of the matter.

9. Learned counsel for the petitioners submits that by the amendment, the petitioners sought to incorporate certain vital pleadings which are important for deciding the actual controversy. However, perusal of the impugned order shows that the Appellate Court has only directed that the application for amendment shall be heard and decided along with main appeal. Even while deciding the application under Order XLI Rule 27 of the CPC, the Appellate Court has directed that the same to be heard at the stage of final argument.

10. Thus, it is clear that the applications filed by the appellants are directed to be decided at the stage of final hearing of the main appeal.

11. In view of this, it is directed that the Appellate Court shall consider the aforesaid applications Exh.41 and 61, at the stage of final hearing of the main appeal.

12. In view of the above, no other orders are required.

13. Having gone through the entire controversy and the conduct of the appellants, as pointed out by Mr. Jachak, parties are directed to advance their final arguments in the appeal at the earliest and preferably on the next date, without seeking unnecessary adjournments. The Appellate Court is directed to decide the appeal within one month from the next assigned date.

14. With the above directions, the writ petition is disposed of. No order as to costs.

(JUDGE)

Kahale