

Order below Exh. 109.

(Passed on 28th January, 2026)

01. Instant application is moved by the plaintiffs for making amendment in their plaint as per Order 6, Rule 17 of CPC and for addition of party under Order 1, Rule 10 of CPC.

02. Plaintiffs submitted that, they have filed the suit for the reliefs of cancellation, declaration and perpetual injunction. Plaintiffs further submitted that, due to their illiteracy and lack of knowledge they failed to implead few necessary parties in the instant suit. In order to avoid the bar of non-joinder of necessary party, it is necessary to implead the legal representative of deceased defendant No. 1 Khandu as defendants in the instant suit. Furthermore, it is necessary to implead co-operative bank and patsantha in the instant suit so as to avoid technical issues. Therefore, plaintiffs prayed to implead proposed defendants No. 1B to 1E and defendants No. 8A, 8B, 9 to 11 in the instant suit. Plaintiffs further submitted that, inadvertently due to typing mistake the area and four boundaries of suit property bearing Gut No. 675 and Gut No. 690 has remained to be mentioned. Therefore, amendment in this respect as mentioned in the instant application may kindly be allowed in plaint. Plaintiffs further submitted that, deceased defendant No. 1 Kacharu Jorvekar had executed a Sale-deed of Gut No. 675 in favour of defendant No. 4 Vishwas Chattar on 22-01-2007. Gut No. 675 is an ancestral property and therefore, the Sale-deed executed by deceased defendant No. 1 Kacharu in favour of defendant No. 4

Vishwas Chattar is not binding upon plaintiffs. Therefore, amendment in this respect (as mentioned in the instant application) is also necessary for the complete adjudication of suit properties and determination of rights of all the stakeholders. Therefore, plaintiffs finally prayed that, they may kindly be permitted to amend the plaint in the instant suit, as mentioned in the instant application (Exh. 109).

03. Defendant No. 2 to 6 and 8, by filing their Say below Exh. 112, opposed the instant application and submitted that, the instant suit is filed on 22-11-2020. On 10-01-2022 plaintiffs impleaded Jijabai Kacharu Jorvekar as the legal representative of defendant No. 1 and along with the said application plaintiffs filed an affidavit, wherein, it is stated that, deceased Kacharu is having Jijabai as the sole legal representative. Thus, plaintiffs purposefully avoided to bring the children of deceased defendant No. 1 Kacharu as the legal representative in the instant suit. Therefore, this attempt of plaintiffs is illegal one. Furthermore, plaintiffs have not cited any reason as to why they are going to implead proposed defendant No. 9 to 11 in the instant suit. Defendants further submitted that, the four boundaries mentioned in Sale-deeds of suit property are different than the proposed four boundaries. Furthermore, plaintiffs are claiming the relief of cancellation in respect of Sale-deed dated 22-01-2007. Considering the year of execution of said Sale-deed it appears that, it is beyond the period of limitation.

04. Defendants further submitted that, in the instant suit

plaintiff's first witness has been examined and instant suit is pending for plaintiffs further evidence. Therefore, by way of this amendment, plaintiffs are going to fill up the lacuna's which have occurred during the cross-examination of PW-1. Hence, considering all these facts, instant application may kindly be rejected.

05. Perused the application and Say filed thereon. Heard the learned Advocate for plaintiffs and defendants.

06. As per Order 6, Rule 17 of CPC, the Court may at any stage of the proceeding allow either party to alter or amend his pleading, in such manner and on such terms as may be just, and such amendment shall be made, as may be necessary for the purpose of determining real questions in controversy between the parties. The proviso clause of Order 6, Rule 17 states that, no application for amendment shall be allowed after the trial is commenced, unless the Court comes to the conclusion that in spite of due diligence, parties could not have raised matter before the commencement of the trial.

07. It is a matter of record that, in the instant suit plaintiff's first witness has been examined and instant suit is pending for plaintiffs further evidence and at this stage plaintiffs have moved this application. On perusal of the application (Exh. 109), it appears that, plaintiffs have sought following proposed amendment :-

1. Impleadment of legal representative of deceased defendant No.1 Kacharu Jorvekar.

2. Amendment in respect of area and four boundaries of suit properties.
3. Amendment in respect of Sale-deed bearing No. 364/2007 executed by defendant No.1 in favour of defendant No. 4.

08. So far as amendment in respect of impleadment of legal representatives of defendant No.1 Kacharu Jorvekar is concerned, it can be said that, though plaintiffs have failed to implead them within a reasonable time, they are the necessary parties in the instant suit. Therefore, their impleadment in the instant suit is necessary for thorough adjudication of dispute in respect of suit property. So far as amendment in respect of area and four boundaries of suit properties is concerned, I am of the view that, for the better adjudication in respect of suit properties and proper execution of a decree passed in the instant suit, it would be proper to allow the plaintiffs to carry out amendment in respect of area and four boundaries of suit properties, so as to avoid future complications.

09. So far as, the amendment in respect of Sale-deed bearing No. 364/2007 executed by defendant No.1 in favour of defendant No. 4 is concerned, I am of the view that, though apparently the relief in respect of said Sale-deed appears to be beyond the period of limitation, Hon'ble Supreme Court has made it clear in its various authorities and catenas of Judgments that, a point of limitation is mixed question of fact and law and therefore, it cannot be rejected at initial stage or in a summary way. Therefore, considering these facts, I am of the view that,

though apparently the amendment sought to be made by plaintiffs in respect of Sale-deed bearing No. 364/2007 executed by defendant No.1 in favour of defendant No. 4 and the relief of cancellation of said Sale-deed is beyond the period of limitation, it being a mixed question of law and fact, requires evidence. Hence, at this stage of the suit, I find it proper to allow the plaintiffs to make an amendment in this respect also. Needless to mention here that, both the parties are at liberty to adduce evidence in this respect during trial and defendants are at liberty to take a defence of limitation in respect of relief about Sale-deed. Therefore, considering all the facts and circumstances of the instant suit, I am of the view that the application below Exh. 109 is to be allowed. Hence, the following order.

ORDER

1. Application below Exh. 109 is allowed.
2. Plaintiffs are directed to carry out the necessary amendment within 14 days from the date of this order.

Date: 28.01.2026.

(**Prasad B. Joshi**)
5th Jt. Civil Judge Sr. Dn.,
Sangamner.