

**ORDER BELOW EXH.15 IN R.C.S NO.7/2025**

The plaintiff has sought amendment *vide* Order VI Rule 17 of the CPC. It is claimed that the plaintiff has instituted the present suit against the defendant for permanent and perpetual injunction in respect of the suit property described in para no.1 of the plaint. The plaintiff has stated in para no.2 of the plaint that he purchased the suit property on 27.08.2014 by a registered sale-deed executed by Pramila Harishchandra Chaudhari, Sachin Harishchandra Chaudhari, and Sau. Madhuri Praful Thakre. It is further stated in the plaint that the above vendors do not have any residential house at Murtizapur and that the suit land was an open plot. The plaintiff constructed a temporary structure on the said plot and his name is duly recorded in the ownership record as well as in the municipal record as House No. 698, Ward No. 16. The plaintiff has also obtained an electricity connection in the name of his wife. These details are mentioned in the body of the plaint. That, along with the suit, the plaintiff had filed an application for temporary injunction. The defendant appeared and filed his reply to the injunction application on 08.07.2025. In para no.4 of the reply, the defendant admitted that the plaintiff had issued registered notices to the defendants for vacating the suit premises but denied the plaintiff's title and further alleged that the suit is bad for non-joinder of necessary parties. In order to remove the objections raised by the defendant, to avoid further complications, and to bring the real facts on record before commencement of evidence, the plaintiff seeks to amend the plaint as follows:

- A. Change of Nature of Relief- the suit be converted into “Suit for Declaration and Possession” The valuation for declaration of ownership is fixed at Rs. 1,000/-, and for possession of the portion of the suit land not in possession of the plaintiff is valued at Rs. 1,000/-, and the requisite court-fee of Rs. 200 + Rs. 200 is paid herewith.
- B. Addition of Necessary Parties - since one of the vendors, Sachin Harichandra Chaudhari, who was handicapped, has expired, the remaining vendors need to be added as necessary parties. The plaintiff therefore seeks to add the following persons as defendants:

Defendant No.2:- Pramila wd/o Harichandra Chaudhari,  
Age: About 60 years, Occu.: Household,  
R/o Gavaripura, Station Area,  
Murtizapur, Tal. Murtizapur, Dist. Akola.

Defendant No.3:- Sau. Madhuri w/o Praful Thakre,  
Age: About 35 years, Occu.: Household,  
R/o Salod Kasba, Tal. Nandgaon  
Khandeshwar, Dist. Amravati.

2. The plaintiff also seeks amendment of additional Pleading after Para No.2 A new para be inserted as: Para 2(a):

“ The defendant no.3 is a married woman residing outside the suit property. Defendant no.2 is residing in some portion of the suit property. Defendant no.1 has illegally

entered into possession of one of the rooms constructed by the plaintiff in front of the suit property. Defendants no.1 and 2 may be directed to vacate the suit property as they have no right, title or interest over the same and their possession amounts to encroachment. The plaintiff is the lawful owner of the suit property and remains in possession of a part thereof where he has kept his machinery used in his goldsmith business. The defendants are attempting to disturb the plaintiff's lawful possession. Hence, they be restrained from causing any obstruction to the plaintiff's possession."

3. According to the plaintiff the proposed amendment is necessary for the just and proper adjudication of the suit and does not change the nature of the original cause of action. The amendment is sought promptly after noticing the objections raised by defendant no.1 in his reply. The amendment will not prejudice the defendants in any manner and is essential for determining the real controversy between the parties. It is therefore prayed that this Hon'ble Court may kindly be pleased to allow the amendment of the plaint as proposed in paragraphs above.

4. The application is strongly resisted by defendant vide say (Exh.17) . It is denied that the plaintiff purchased the property through the sale deed dated 27.08.2014. Defendant denies plaintiff's claim that the previous owners had no house on the plot or that plaintiff constructed any structure. Defendant denies plaintiff's name appears in municipal or ownership records or that any electric connection exists. Defendant admits replying to the

plaintiff's temporary injunction application on 08.07.2025. In that reply, defendant had stated plaintiff issued notices to vacate but that plaintiff had no title, and suit lacked necessary parties. Defendant alleges plaintiff intentionally concealed a crucial notice dated 05.09.2019 issued by Megha Dajjuka demanding vacant possession. Defendant claims suit for declaration is barred by limitation. Defendant states that the property is not an open plot but a house in which Pramila, Madhuri, Sachin and defendant reside. Plaintiff allegedly did not include these persons as parties despite knowing they reside there and had executed the sale deed. Defendant alleges plaintiff filed suit with false and imaginary cause of action and has not approached the court with clean hands. Since defendants reside in the property, the sale deed dated 27.08.2014 appears doubtful. Defendant contends that the plaintiff has no cause of action and the suit deserves rejection under Order VII Rule 11 CPC. Defendant submits amendment would change the nature of the suit, and the cause of action. Hence, according to the defendant the application is legally not maintainable and deserves to be rejected with costs.

5. Notice was issued to proposed defendants no. 2 and 3, they by filing say below overleaf of the application prayed for allowing the application and their addition as party to the suit. Perused record and Heard Ld. Advocates of both parties.

6. The proposed amendment seeks to incorporate reliefs of declaration and possession based on the same sale-deed dated 27.08.2014 and the same alleged obstruction by the defendants. The foundation of the suit, namely the plaintiff's claim of

ownership and interference with possession, remains the same. The amendment only seeks to amplify the reliefs in view of the defence raised by defendant No.1. The Hon'ble Supreme Court has consistently held that all amendments which are necessary for determining the real question in controversy and which do not introduce a completely new or inconsistent cause of action ought to be allowed, particularly when the matter is still at the stage prior to commencement of evidence.

7. In the present case, the suit is at a preliminary stage. No evidence has commenced. The objections raised by defendant No.1 regarding non-joinder of vendors as necessary parties also support the necessity of their addition. The proposed defendants themselves have no objection to being joined. The amendment does not cause any irreparable prejudice to defendant No.1; whatever defence is available to him in respect of the amended pleadings can be taken by filing an additional written statement. Issues of limitation, title, possession and validity of the sale-deed are matters to be considered at the trial and need not prevent the amendment at this stage.

8. The contention that the amendment changes the nature of the suit is not acceptable. The core dispute pertains to title and possession over the suit property, which continues to be the foundation even after amendment. The amendment, in my view, is necessary for proper and complete adjudication of the matter.

9. Hence, I am satisfied that the proposed amendment is bona fide, essential for determining the real controversy between

the parties, and does not cause prejudice to the defendant. It deserves to be allowed. Hence, I pass following order-

**ORDER**

1. Application under Order VI Rule 17 CPC is allowed.
2. Plaintiff is permitted to carry out the amendment in terms of paragraphs (A), (B) and (C) of the application within 15 days.
3. Amendment be carried out in the plaint accordingly.
4. Proposed defendants No.2 and 3 shall be added as party-defendants to the suit.
5. Defendant No.1 is at liberty to file an additional written statement to the amended plaint within 30 days thereafter.
6. No order as to costs.

(Dictated and Pronounced in Open Court)

Date : 09/12/2025.

(A.G.Tamboli)  
C.J.J.D., Murtizapur.

**CERTIFICATE**

I affirm that the contents of this P.D.F. File Order/Judgment are same, word to word, as per the original Judgment/Order.

Name of the Steno	P. J. Yadav.
Name of the Court	CJJD & JMFC, Murtizapur
Date of Order & Judgment	09.12.2025
Order/Judgment Signed by the P.O. on	09.12.2025
Order/Judgment uploaded on	10.12.2025