

MHBH070003962021



R.C.S. No. 23/2021
Chhaya -Vs- Anandrao

ORDER BELOW EXHIBIT - 37

(Passed on 17-11-2025)

1. Present suit is instituted for Declaration, Possession, Injunction and Damages.

2. This application is made by plaintiff under **Order 6 Rule 17** of the Code of Civil Procedure seeking permission to amend the plaint.

3. Perused the application and say. Heard Ld. Advocates for respective parties.

4. Ld. Advocate for the plaintiff Shri. S. D. Sawarkar has submitted that, the plaintiff has filed present suit for Declaration, Possession, Injunction and Damages. The adjoining land of plaintiff, Gat No.157 is owned by defendant. But it is learnt that, the brother of defendant is owner of said land and hence it is necessary to amend the plaint as under:-

(a) In title it be added 'Defendant No.2' – Gulab S/o. Mahadeo Jambhule, Aged about 53 years, Occu. Cultivator, R/o. Kakepar, Tah. Pauni, Dist. Bhandara (M.S.)

(b) In the plaint in place of 'defendant' it be added 'defendants'.

(c) After the para. No.4 be added 'Para No.4(A):- That the defendant No.1 is in cultivating possession of the land bearing Gat No.157 and during measurement of the land Gat No.156, defendant No.1 was present alongwith defendant No.2 and defendant No.1 has obstructed the plaintiff from taking possession of land as shown by the surveyor. Hence both are liable for payment of damages and to give possession as per surveyor report.

5. That the proposed amendment is formal in nature and it will not cause any prejudice to either parties and it will not change the nature of suit. Hence he prayed to allow the application.

6. Ld. Advocate for the defendant Shri. D. P. Tulaskar has opposed the application by filing his say. He submitted that trial is already commenced and evidence of some witnesses including the plaintiff is recorded. Plaintiff could have raised the matter before the commencement of trial. This application is based on the provision of Order 1 Rule 10 of the Code of Civil Procedure. The application is out of limitation. If this application is allowed it will cause undue prejudice and injustice to the existing defendant, it will change the facts of the case. Hence it be rejected. If the

application is allowed then heavy cost should be imposed upon the plaintiff.

7. Considered the submissions of respective parties. The trial of the suit has been already commenced. Two witnesses of plaintiff are been examined. The plaintiff could have sought the proposed amendment earlier but he failed to do it. Order 6 Rule 17 of the CPC provides that no application for amendment shall be allowed after the trial has commenced, unless the court comes to the conclusion that inspite of due diligence the party could not have raised the matter before the commencement of trial. By reading his application aforesaid circumstances are nowhere seen. The plaintiff has not shown sufficient cause for not making the application at an early stage.

8. By way of this amendment the plaintiff is seeking to add defendant No.2 as a party. Adding a party to the suit can only be done through an application under Order 1 Rule 10 of the Code of Civil Procedure. The purpose of Order 6 Rule 17 is to make changes to the existing pleadings of a party such as correcting a mistake, adding new facts or removing some information. The purpose which the plaintiff is seeking to achieve cannot be achieved by way of this application. Hence the court is of

the view that the application is liable to be rejected. Hence I pass the following order :-

ORDER

1. The application is rejected.
2. No order as to costs.

Date :17/11/2025

Sd/-
(Vaibhav R. Farkunde)
Joint Civil Judge Junior Division,
Pauni.

CERTIFICATE

I affirm that the contents of this P.D.F. file are same word to word as per original.

Name of the Court	: Joint Civil Judge Junior Division, Pauni.
Name of the Steno	: Rohini R. Kumbhalkar, Steno (Grade-3).
Order date	: 17/11/2025
Order signed by P.O. on	: 17/11/2025
Order uploaded	: 18/11/2025