


MHJN020005162014 	SPL.C.S. No.41/2014 Bharat Newasekar-Vs-Manish & Ors
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**ORDER BELOW EXH.160**  
**(Dated 02.05.2026)**

. The plaintiff has filed the present application for amendment in the plaint vide Order VI Rule 17 of The Code of Civil Procedure,1908.

2. The plaintiff submits that,he has filed the present suit against the defendant nos.1 to 5 for the relief of specific performance of contract, declaration and perpetual injunction and same is pending before the Court. In the present suit, an ex-parte order is passed against the defendant nos.1,2B & 3, whereas no written statement order passed against the defendant nos.2-A, 4 & 5. Therefore, the plaintiff has filed his evidence by way of an affidavie vide Exh.70.

3. The plaintiff submits that,during the pendency of the suit, the defendant nos.1 & 5 have sold out the suit property to one Rajani w/o Kailash Newasekar vide registered sale-deed bearing no.2463/2014. After purchasing the suit property, the plaintiff has filed an application to implead Rajani w/o Kailash Newasekar as a party i.e. defendant in the present suit and said application is allowed. As per orde, said Rajani w/o Kailash Newasekar impleaded as a party i.e.

defendant no.6 and she has filed written statement alongwith evidence by way of an affidavit in the present suit.

4. The plaintiff submits that,after purchasing the suit property,the defendant no.6 has taken illegally and forcibly the possession of suit property from the plaintiff with the help of other defendant nos.1 to 5 and Gund persons. In the facts and circumstances the relief of specific relief of performance will remain incomplete unless the plaintiff is also granted the recovery of the possession of the suit property from defendants pendentelite. Therefore,it is just and necessary to amend the suit by inserting the relief of recovery of the possession of the suit property from the defendants in the claim clause, prayer clause and suit plaint. Hence, the plaintiff is intending to amend the suit as per para no.5 sub para no.A to C mentioned in the said application.

5. The plaintiff submits that,the amendment is bonafide and necessary for proper adjudication. If above amendment is allowed, it does not change the nature of suit and no prejudice will be caused to any party, as the cause of action is continuous and the relief sought is consequential to the main relief. Hence,this application may be allowed and to carry out the amendment in claim clause,para no.14(B) & in prayer clause as (G) and oblige.

6. The defendant no.6 has filed say vide Exh.162 on the said application that,she denied all the contents mentioned in the application filed by the plaintiff. The plaintiff instituted the suit in the year 2014 meaning that a period of 12 years has elapsed since its filing and the present application has been filed only after the plaintiff's evidence had

concluded; specifically, at the stage when defendant no.6 filed their affidavit of evidence. At the time of instituting the suit, despite being fully aware of the factual circumstances, the plaintiff had failed to implead defendant no.6 therein. Subsequently, defendant no.6 filed an application seeking to be joined as a party to the suit; upon the grant of said application, the plaintiff amended the suit to formally implead defendant no.6.

7. The defendant no.6 further submits that, she filed a written statement, thereby bringing the true facts to the notice of the Court. After recording the evidence of himself and two witnesses, the plaintiff filed a pursis to close his evidence. Subsequently, she filed his affidavit in examination-in-chief, however, instead of cross-examining him, the plaintiff filed the present application on 25.03.2026. The amendment sought by the plaintiff through the present application would alter the very nature of the original suit. Since the plaintiff failed to exercise due diligence, the application filed under Order 6, Rule 17 of the Code of Civil Procedure is not tenable. Hence, present application may be dismissed with cost.

8. Perused application and say.

9. Heard both the parties.

10. The plaintiff seeking amendment in the present suit in respect of Exh.160 mentioned in para no.5 sub para no.A to C for proper adjudication of the dispute. If the plaintiff effects the proposed amendment pursuant to Exh.160, it does not appear likely that, the fundamental nature of the original suit will undergo any change. Furthermore, it should be carry out the proposed amendment in accordance with the application, there

appears to be no likelihood of any prejudice being caused to the defendants. On the contrary, both parties will be enabled to present their respective cases effectively. Therefore, it is just and necessary to amend the suit by inserting the relief of recovery of the possession of the suit property from the defendants in the claim clause, prayer clause and suit plaint. To meet the ends of justice, the present application of the plaintiff is proper one subject to costs of Rs.500/-. Accordingly, I pass following order.

**ORDER**

1	The application vide Exh.160 is hereby allowed subject to cost of Rs.500/-.
2	The plaintiff is directed that, the cost of Rs.500/- is deposit in office of the District Legal Services Authority, Jalna on next date.
3	Permission is granted to amend the suit as per Exh.160 within the statutory period.
4	The plaintiff should file a copy of the amended plaint after amendment.
5	Accordingly present application is disposed off.

Date: 02.05.2026

(Ashwini P. Diwan)  
Civil Judge (Sr.Divn.)  
Jalna

**C E R T I F I C A T E**

I am stating that, the contents of this P.D.F. file are word to word as per original order.

Name of Steno : Shirish D.Deshmukh  
Name of Court : Civil Court (S.D.), Jalna.  
Date of PDF : 02.05.2026

Steno(M.)