

MHJN040001642021



R.C.S. No.15/2021
Sajan Laxman Lohare
Vs
Dhananjay Wakade & Ors.

Order passed below Exh.37

(Passed on 23-02-2026)

1. This order disposes of the application filed by the defendant under Order VI Rule 17 read with Section 151 of the Code of Civil Procedure, 1908 seeking amendment of the written statement by incorporating proposed paragraph 2-A.

Contentions in the Application -

2. The plaintiff has instituted the present suit seeking a decree of perpetual injunction restraining the defendant from interfering with his alleged possession over the suit property. The defendant has filed written statement contesting the claim. By the present application, the defendant seeks to incorporate an additional paragraph as paragraph No.2-A in the written statement.

3. It is the contention of the defendant that subsequent to filing of the written statement, certain material facts and documents have come to light. It is further contended that the Hon'ble High Court, Bench at Aurangabad, in Writ Petition No. 6718/2024, has directed an inquiry regarding the land allegedly allotted to the plaintiff's father as a project-affected person. On the basis of the said subsequent development and the material discovered, the defendant seeks to plead that the allotment was obtained by suppression of material facts, misrepresentation, and by securing false certificates, and therefore the allotment order is void ab initio. The defendant contends that such

pleadings are directly relevant to the question of lawful possession and entitlement to equitable relief.

Say of the Plaintiff -

4. The plaintiff has strongly opposed the amendment application by filing a detailed reply. It is urged that the present suit is purely one for perpetual injunction and does not involve adjudication of title or validity of allotment. According to the plaintiff, the proposed amendment seeks to introduce an entirely new controversy concerning alleged fraud and the validity of the allotment, which is beyond the scope of the present proceedings.

5. The plaintiff further submits that the Hon'ble Bombay High Court, Bench at Aurangabad, in Writ Petition No. 6718/2024 has only directed that an inquiry be conducted and has not recorded any finding that the allotment was illegal or obtained by fraud. Hence, the defendant cannot be permitted to plead as the fraud has already been established. It is also pointed out that no notice pursuant to the alleged inquiry has been served upon the plaintiff and no conclusive action has yet been taken by any competent authority. According to the plaintiff, the proposed pleadings are therefore speculative and premature.

6. It is additionally stated that the defendant has failed to satisfactorily explain why such allegations were not raised earlier. The plaintiff asserts that the defendant was aware of the relevant facts for a considerable period and is now attempting to delay the proceedings by unnecessarily enlarging the scope of the suit. The plaintiff has further averred that his predecessor had lawfully acquired the property pursuant to acquisition proceedings and from the compensation received in respect of earlier acquired lands. The allotment, according to the plaintiff, was legal and valid, and possession has been continuous

and protected by law. Lastly, it is submitted that permitting the proposed amendment would unnecessarily broaden the scope of the suit, transform it into a complex title dispute, and cause serious prejudice to the plaintiff. On these grounds, the plaintiff prays that the amendment application be rejected with costs.

7. Heard both sides. The defendant has filed order of Hon'ble High Court directing the inquiry and other documents. Perused documents by the plaintiff. Order VI Rule 17 of the Code of Civil Procedure empowers the Court to allow amendment of pleadings if such amendment is necessary for determining the real questions in controversy between the parties. At the stage of deciding an amendment application, the Court is not concerned with the truth or otherwise of the allegations. The Court only considers whether the amendment is relevant and necessary for adjudication of the issues.

8. In the present suit, one of the issues framed is whether the plaintiff proves that he is in lawful possession of the suit property. The word "lawful" assumes significance. The plaintiff is required to establish not only possession, but lawful possession. The defendant, by the proposed amendment, seeks to challenge the legality of the origin of the plaintiff's possession. Such a defence directly relates to the issue framed and cannot be said to be alien to the controversy.

9. The mere fact that an inquiry is pending does not prevent the defendant from raising allegations of fraud or illegality. Whether those allegations are ultimately established is a matter of trial. The proposed amendment does not alter the nature of the suit. The relief claimed by the plaintiff remains one of injunction. The amendment only elaborates the defence concerning entitlement to such equitable relief. The plaintiff will have full opportunity to rebut the allegations by filing

additional pleadings and by leading evidence. Therefore, no prejudice would be caused. Accordingly, following order is passed -

-Order -

1. The application is allowed.
2. Since the matter is made time-bound by Hon'ble High Court, necessary amendment be carried out on or before the next date.
3. Cost in cause.

Date: 23.02.2026

Jt. Civil Judge Junior Division,
Ambad.

CERTIFICATE

I affirm that the contents of this PDF file are word to word as per original Order.

Name of Steno : S. M. Sapkal

Name of the Court : Jt. Civil Judge (J.D.), Ambad

Date : 23.02.2026

Sd/-

Signature of Stenographer