

MHJN040026532024



R.C.S. No.333/2024
Sudhakar Maske
Vs.
Tirtharaj Jaykar & Ors.

Order passed below Exh.41
(Passed on 21st November 2025)

The present application is filed by the plaintiff under Order VI Rule 17 of the Code of Civil Procedure for addition of pleadings and prayer.

2. According to the plaintiff, present suit was filed for permanent injunction. Defendants appeared and filed written statement wherein defence was taken that the defendants are in possession of the suit property on the basis of agreement dated 27.03.2018 for which suit for specific performance of that agreement is also filed and pending before another Court at Ambad. By way of this application, plaintiff wants to add subsequent pleadings and thereby denying the execution of said agreement being bogus, fabricated etc. Therefore, the plaintiff wants to add pleadings being para No.6-A in the plaint. In addition to the subsequent pleadings, the plaintiff also prayed for addition of prayer of declaration that said agreement is not binding upon them.

3. Defendant filed say at Exh.44 and submitted that the plaintiffs interim injunction (Exh.5) was rejected which was confirmed by the Hon'ble High Court. The written statement was filed long back. The plaintiff had earlier also filed application for amendment at Exh.27. However, the plaintiff failed to pray for present amendment in that application. The matter is time bound by Hon'ble High Court at the instance of plaintiff himself. In spite of proceeding with the matter, the plaintiff is filing multiple applications like sending signature to the

handwriting expert, clubbing of the suit for specific performance. The plaintiff intention is just to drag the time and to harass the defendant. In such circumstances, present application is nothing but an afterthought to fill up lacuna. Hence, he prayed for rejection of application.

4. Heard both sides.

5. It is true that the plaintiff had earlier moved an amendment application (Exh.27- allowed on 23.06.2025) and could have included the present prayer at that time. It is also true that the defendants' objection regarding repeated applications and consequent delay cannot be brushed aside lightly. There is substance in the defendants' contention that the plaintiff has been adopting dilatory tactics.

6. However, it is equally material that the trial has not yet commenced. It is settled law that all amendments necessary for determining the real questions in controversy should ordinarily be allowed, provided no serious prejudice is caused to the opposite side.

7. Here, the defendants themselves have relied upon the agreement dated 27.03.2018 as the foundation of their defence and have also filed a separate suit for specific performance. Once such defence has been raised, the plaintiffs are entitled to incorporate necessary pleadings denying the document and seeking appropriate declaration. Allowing such amendment would avoid multiplicity of proceedings and enable a comprehensive adjudication of the parties' rights. No irreparable prejudice is likely to be caused to the defendants, as they will have the opportunity to file additional written statement and lead evidence.

8. At the same time, considering that the plaintiff had an earlier opportunity to seek this amendment and that repeated applications have contributed to delay in a matter which is time-bound, it is just and proper

that the amendment be allowed subject to payment of costs.

ORDER

1. Application is allowed subject to costs of Rs.500/- payable to the defendant.
2. The plaintiff is permitted to carry out the amendment in the plaint by inserting paragraph 6-A as proposed and by adding the consequential prayer for declaration as prayed.
3. Since, the present matter is made time bound by the Hon'ble High Court, the plaintiff is directed to carry out amendment on or before next date i.e. 26.11.2025.
4. Plaintiff is directed to pay court fees for additional prayer.

Date: 21.11.2025

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 : 24.11.2025

Sd/-

Signature of Stenographer