



**ORDER PASSED BELOW EXH.191**  
**IN REGULAR CIVIL SUIT NO.190/2014**

[ CNR No.MHKO090002992014 ]

This is an application file by plaintiff under order 6 Rule 17 of Civil Procedure Code seeking permission to amend the application

2. It is the contention of the plaintiff that defendant has produced certain registered deeds bearing registration nos.2345/2010, 2344/2010 and 2665/2006, which the plaintiff alleged to be forged, fabricated and without consideration. The plaintiff submits that the said documents have been exhibited in the present proceeding vide list Exh.85, however, the plaintiff was unaware about the existence of the deed bearing no.2344/2010 at the time of filing the suit. Therefore, no relief in respect of document was originally sought. It is further submitted by the plaintiff that the plaintiff came to know about the said deed only when the defendant no.1 placed it on record and gave evidence in relation thereto on 30.08.2022. Therefore, to seek declaratory relief in respect of deed bearing no.2344/2010, the present amendment is sought.

3. The application is strongly opposed by the defendants. It is contended that the suit was instituted in the year 2014 and

after completion of evidence by both the sides, the suit was posted for final argument. It is the contention of the defendant that the plaintiff has earlier filed multiple applications including the appointment of Court Commissioner and interim injunction only with view to delay the proceeding. It is further argued that the proposed amendment is at face value barred by law of limitation and lacks due diligence as required under the provision of Order VI Rule 17 of CPC. Hence the application is liable to be rejected.

4. The plaintiff, in order to substantiate his contention relied upon the judgment of Hon'ble Supreme Court i.e. ***Ragu Thilak D. John V/s. S. Rayappan & Ors., Hon'ble Supreme Court Appeal (Civil) 787 of 2001, decided on 23.01.2001.*** In the case cited supra, it is observed that the Court should be liberal while deciding the amendment application and the Court should avoid hyper-technicalities. As regard law of limitation, it is observed that the plea of limitation is arguable in the circumstances of the case. On other hand, the defendant relied on the case of ***Eknath Hegadekar & Ors. V/s. Aagatrao Ghodake & Ors. -- 2022 (1) Mh.L.J. 319 ; Kamladevi Shah & Ors. V/s. Bhupendra Ajinkya & Ors. -- 2024 (6) Mh.L.J. 63 ; Anil Bilawar V/s. Anita Kadam – 2022 (2) Mh.L.J. 345 ; M. Revanna V/s. Anjanamma – 2020 (1) Mh.L.J. 143 ; Basavaraj V/s. Indira & Ors. -- (2024) 3 SCC 705.*** In the cases cited by the defendant, it is observed that when the

amendment sought is barred by limitation, the amendment cannot be allowed. The relief of amendment, which was time barred, cannot do indirectly what cannot be directly.

5. I have given thoughtful consideration to the argument advanced by both the sides. Admittedly the suit is a posted for final argument. Repeated warnings were issued to the plaintiff to proceed with the argument and when the suit was posted for final argument the present application came to be filed. On perusal of record, it appears that the cross-examination of the plaintiff was conducted on 30.08.2022. In the cross-examination, the plaintiff specifically admitted that he came to know about the mutation of defendant's name in Gat Nos.41A and 41B in view of registered deed bearing no.2344/2010. He also admitted that he has seen that document and that document purportedly bears the signature of his grand-father Gous Mulla. This admission clearly established that plaintiff has knowledge of the said document prior to the cross-examination conducted by the defendant or at least on the day of cross-examination i.e. on 30.08.2022. Despite such knowledge, no steps was taken for nearly 3 years to amend the plaint.

6. The proviso of Order VI Rule 17 of Civil Procedure Code mandate that no application for amendment shall be allowed after commencement of trial unless the Court is satisfied

that the party could not have raised the matter earlier despite of due diligence. In the present case, not only the trial commenced but the evidence of both the sides have been closed and the matter is posted for final argument. There is absolutely no explanation as to why the plaintiff despite knowing the documents since August 2022, waited till the final stage of the suit to file this application. Thus, the requirement of due diligence is not satisfied.

7. Even otherwise from the face of record, it appears that the plaintiff wants to challenge the deed, which was executed in the year 2010 and even assuming that the plaintiff acquired the knowledge in the year 2022. Even also, the relief sought by the plaintiff is time barred. The defendant has filed the cases cited supra which suggest that the amendment introducing the time barred claim cannot ordinarily be allowed. As regard the case cited by the plaintiff is concerned, it says that the issue of limitation can be framed and it can be arguable in the circumstances of the case. However, in the case at hand, from the admission of the plaintiff itself, it appears that the relief sought by the plaintiff is time barred. Therefore, the issue of limitation is at face value not in favour of the plaintiff. It is also important to note the conduct of the plaintiff. In the present suit, there are various applications filed by the plaintiff. Since 27.06.2025, the suit is posted for the final argument. However, on each date one and other applications came to be filed by the plaintiff. Already specific

:: 5 ::

R.C.S.No.190/2014.(OBE 191)

directions were given to the plaintiff to proceed with the suit, as it is more than 10 years old. Hence, considering the total circumstances and age and stage of the suit, I am of the view that the plaintiff not due diligent and the amendment is apparently time barred by law of limitation. Hence I found no merit in the application and liable to be rejected. Hence, I pass the following order :-

### **ORDER**

The application is rejected.

Place : Gadhinglaj.  
Date : 05.11.2025.

( N. S. Puri )  
Civil Judge Senior Division,  
Gadhinglaj