

MHKO140000011981 	<u>Regular Civil Suit No.34/1981</u> Ambaji Basargekar & Ors. Vs. Babu Gawade & Ors.
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ORDER BELOW EXHIBIT- 402

[Passed on: 07.05.2026]

1. The plaintiff has filed present application under **Order 6 Rule 17** of the Code of Civil Procedure for amendment in the plaint.
2. The plaintiff submitted that, the plaintiff has filed present suit for partition, separate possession & injunction. In respect of land formerly bearing R.S. No.61 of village Turkewadi. After village separation same was renumbered as R.S. No.62. However, in para no.1B column 3 instead of Turkewadi it is return as Vaitakwadi. Hence, it is necessary to delete the Vaitakwadi and it is to be corrected as Turkewadi, as per record of rights of the suit property. The proposed amendment is consistent with the public records and it will not change the nature of suit. It will not affect the other side and will not cause any loss. On the contrary it will help in deciding the matter conclusively and to avoid the technical and legal complications. Hence, present application.
3. The learned advocate for defendants filed say at Exh.403 and raised objection. It is submitted that, the contents of the present application are false and imaginary. The plaintiff ought to have been diligent while inserting the plaint para 1B. The

suit is of the year 1981 and pending since last 45 years. It is pending for the evidence of plaintiffs. The amendment cannot be allowed at this stage. The plaintiff has filed present application with intention to prolong the matter and if the application is allowed then it will cause loss to the defendants.

4. Perused the record. Heard Learned advocate for both side. Following are the points for determination along with my findings.

Sr. No.	POINTS	FINDINGS
1.	Whether the proposed amendment is necessary for the determining real question in the controversy between the parties.?	Yes.
2.	What Order.?	As per Final Order.

REASONS

As to point no.1

5. *As per order 6 Rule 17 of Code of Civil Procedure the Court may, at any stage of the proceeding court may allow either party to alter or amend his pleading in such manner and on such terms as may be just. All such amendment shall be necessary for the determining real question in the controversy between the parties.*

The proviso to it provides that, no application shall be allowed after the trial has commenced, unless the court comes to conclusion that inspite of due diligence the party could not have raised the matter before commencement of trial.

6. In view of the aforesaid provision, it is clear that, the

amendment in the plaint may be allowed at any stage. But for allowing the amendment after commencement of trial, the plaintiff has to show that inspite of due diligence he could not have raised the said fact before commencement of trial. In the present matter it is seen that the suit is filed for partition, separate possession & injunction. The issues are framed and the matter is pending for evidence of plaintiff. It is to be seen that whether the proposed amendment is necessary for determining real controversy between the parties.

7. The plaintiff on affidavit stated that, the correction in the name of village is necessary as per record of rights. However, it is seen that, the actual trial is not yet commenced. The plaintiff by way of this application wants to correct the name of village where the subject matter is situated. According, to plaintiff it is written as Vaitakwadi instead of Turkewadi. Considering the proposed amendment, I am of the view that the nature of suit will not be changed. It will not cause any prejudice to the defendant. Rather it would help in deciding the matter on merit. At the same time it is necessary to imposed cost for causing delay. Accordingly, I pass following order.

ORDER

- a) Application is allowed subject to cost of Rs.500/-.
- b) The plaintiff is permitted to carry out amendment in the plaint as prayed.
- c) Plaintiff to carry out amendment on or before next date without fail.

d) Cost is payable to other-side.

Date: 07/05/2026

[Waman D. Jadhav]
Joint Civil Judge Junior Division, Chandgad.