

MHPU020026092024



**ORDER BELOW EXH. 1 AND APPLICATION OF PLAINTIFFS
OF ADJOURNMENT DATED 19.11.2025.**

Plaintiffs have moved an application today for adjourning the matter for the reason that they have preferred writ petition and same is pending. It is submitted that by order dated 21.08.2025 under Order 6 Rule 17 of CPC the part of the order in respect of prayer clause B and C of the proposed amendment was rejected and is subjudice before the Hon'ble High Court under Writ Petition no. 12416/2025. It is further contended that all the respective defendants are served in the writ petition and matter is listed on 08.12.2025 before the Hon'ble High Court. Thus, it is prayed for adjournment.

2. The learned counsel for the defendant no. 3 has filed say and objected to the application. It is strongly contended that deliberately by abusing the process of law delay tactics are adopted. The order of the amendment dated 21.08.2025 is accepted and acted upon by the plaintiff. Accordingly, amendments are also carried out and thereafter Writ Petition is preferred in respect of part of the amendment order. Thus, they are not entitled for the adjournment now, in view of the order dated 23.07.2025 of

this court. It is further submitted that there is no stay from the Hon'ble High Court. Thus, learned counsel for the defendant no. 3 press for hearing on application of them under Order 7 Rule 11 of CPC which is at Exh. 51.

3. Perused the record. Heard both the sides in detailed. Heard other learned counsels present in the matter on behalf of other defendants. Both the sides have relied upon the order of this court dated 23.07.2025 wherein the course to decide various applications pending was laid down. In para no. 8 and 9 of the said order the course of applications to be heard was laid down.

4. Admittedly the order on amendment application dated 21.08.2025 passed by this court wherein prayer clause B and C of proposed amendment came to be rejected was challenged before the Hon'ble High Court in the Writ Petition and is subjudice. It is submitted that notice is already served to all the defendants/respondents.

5. Factually assuming the contingency if the matter is further proceeded for hearing of Order 7 Rule 11 of CPC as contended by learned counsel for the defendant no. 3 and in case the application came to be allowed the very petition before the Hon'ble High Court of amendment will become infructuous. The other contingency is that in case the application under Order 7 Rule 11 of CPC is rejected and subsequently the order of the Hon'ble High Court is

passed on amendment it will give rise to complicity and multiplicity.

6. Therefore, judicial discipline and propriety requires when the matter is seized before the Hon'ble High Court. The matter should be adjourn for reasonable period and parties be relegate to pursue the matter before the appellate court.

7. The authority as submitted by learned counsel for the plaintiff of the Hon'ble High Court in case of *Kishor Bhikansingh Rajput Vs. Preeti Kishor Rajput reported in All MR 2007/4/231* wherein para 8 of the judgment the Hon'ble High Court has clearly laid down that if any alarming urgency is not their the leaned trial court should stay hands away till the decision from the Hon'ble High Court in the matter subjudice. The authority is clearly applicable at this stage. The notice are already served in the matter before the Hon'ble High Court. No prejudice will be cause if matter is adjourned at this stage.

8. The authority relied by learned counsel for the defendant no. 3 in case of *R. K. Roja Vs. U.S. Rayudu reported in AIR 2016 Supreme Court 3282* and submitted that court cannot proceed with the trial without disposing of application under Order 7 Rule 11 of CPC. Considered the authority. The authorities though relevant but same cannot be considered at this stage for the reason the trial is yet to

proceed. Moreover, as per order dated 23.07.2025 of this court the amendment application is yet to achieve final dictum.

9. Therefore, in the interest of justice considering the circumstances and particularly as notice are served in the matter before the Hon'ble High Court to avoid multiplicity of the proceedings and to maintain judicial propriety the following order is passed.

ORDER

1. The application of plaintiffs is allowed.
2. Matter is adjourned for four weeks.

Date : 19/11/2025
Pune.

(V. R. Assudani)
17th Jt. CJSD & Add. CJM, Pune