

MHLA150009552022



Order below Exh. 56.

This is an application filed by the plaintiff to amend his pleadings under Order VI rule 17 of Code of civil Procedure, 1908 (in short CPC).

2. The plaintiff stated that, the plaintiff has examined one witness and after completing his cross-examination, the plaintiff has submitted that his evidence is closed. The plaintiff has claimed his share in Gat No. 36/2 (36/AA) 04 H. 77 R. and Gat No. 37/2 (37/AA) 04 H. 79 R. at village Sandol Tal. Chakur. The plaintiff has two sisters namely 1) Shobha Digambar Kamble and 2) Anita Ankush Sawate. The plaintiff was requested them to join the case, but they verbally stated that they do not want share in their mother's property, and also stated that they were ready to come to court and declare that they had given up their rights, so the plaintiff had not included them as plaintiffs.

3. The defendants No. 1/1 to 1/3, 2/6 and 3 have not raised any objection in their written statement regarding the sisters of the plaintiff Madhav 1) Shobha Digambar Kamble and 2) Anita Ankush Sawate. At present, the above defendants have mentioned the said matter in their examination of chief Exh. 54. Therefore, the said plaintiff finds it necessary to make both the sisters of the plaintiff as defendants. For that, it is necessary to amend the claim. The amendment in the said claim will not make any difference in the original substance of the claim. On the contrary, it will help the plaintiff and the defendant to get fair justice. Also, due to the share of

two defendants, the share of the plaintiff will be 1/6 instead of 5, accordingly, in paragraphs no. 3, 5 to 8, 10, 11, 12, 14 to 18, 19 (A to C) of the claim and in paragraphs no. 1 and 2 of the request, it is necessary to make 1/6 instead of 5. The said amendment will help in getting natural justice.

4. Amendment of the claim in the said case does not affect the just rights of the defendant in any way. Also, there will be no unnecessary change in the original substance of the claim. Therefore, it is necessary to make the following amendments in the said claim.

Defendant no.

4. Shobha Digambar Kamble, Age:- 42 years Occupation:- Housekeeper Res. Sandol Tal. Chakur, Dist. Latur, Presently Res. M. Phule Nagar, Udgir, (Near Buddhist Vihara) Tal. Udgir, Dist. Latur

5. Anita Ankush Sawate, Age: 40 years Occupation:- Housekeeper Res. Borgaon Tal. Chakur Dist. Latur. Presently Res. Gurukul CBSD, Cabin Road, Near Jondhale School, Navrenagar, Ambarnath, Dist. Thane Pin. 421501.

5. The share will be 1/6th instead of 1/4, accordingly in paragraphs No. 3, 5 to 8, 10, 11, 12, 14 to 18, 19 (a to. c) of the claim and in paragraphs No. 1 and 2 of the request, 1/6 instead of 1/4 and in paragraphs No. 1 and 2 of the request, 1/6 instead of 1/4. If the plaintiff's application for amendment of claim is not approved as above, both the plaintiff and the defendant will suffer irreparable loss. Accordingly, it would be in accordance with natural justice to approve the said application for amendment of claim.

6. Defendant no.1/1 to 1/3 filed their say below exh. 58 and stated that, to fill the lacuna plaintiff has filed this false application. This application comes under order 1 rule 10 also, so

plaintiff cannot claim amendment by both way. Amendment cannot be done at this stage. Therefore, they prayed to reject the application. All other contention of plaintiff is denied by defendants.

7. From rival contentions of both the sides, following points arise for my consideration. These points, my findings and reasons are as given below :-

Sr. no	Points	Findings
1	Whether the proposed amendment is necessary for adjudication of the suit on merit ?	Yes
2	Whether proposed amendment would cause prejudice to defendant No. 1 ?	No
3	Whether proposed addition of defendants is necessary ?	Yes
4	What order ?	As per final order.

REASONS

As to Point no. 1 to 4:

8. Heard learned advocate on behalf of the plaintiff. He submitted that, the proposed amendment is regarding addition of sisters as defendants. Since the institution of the suit plaintiff have claimed share in suit property and therefore being his sisters they are also entitled to share in the suit property. Therefore, plaintiffs have not come with a new case by way of proposed amendment. He further submits that, if the proposed amendment is allowed, no prejudice would cause to defendants. Accordingly learned advocate prayed to allow the application.

9. Learned advocate for defendant argued that, proposed amendment will change the nature of the suit. The application is filed after the evidence of plaintiff. Hence, it is not tenable as per provision

u/o. 6 rule 17 of C.P.C. The plaintiff wanted to fill up lacuna in the cross examination. Hence, it is prayed that present application may be rejected with costs.

10. Perused the application, say and record. This application is filed for amendment in the pleading of the plaintiff claiming addition of his sister. The plaintiff in the suit has clearly claimed that proposed defendants have share in suit property. Defendant no.1,2,3 do not dispute that proposed defendants are sisters of the plaintiff.

11. Now by way of amendment plaintiffs wants to add Shobha Digambar Kamble and Anita Ankush Sawate as defendant no. 4 and 5 respectively. If this proposed amendment is taken into consideration, then, except the change in the prayer about to the extent of shares of the plaintiff, no other basic structure of the suit or basic pleading of the suit are proposed to be changed. The amendment proposed by the plaintiff is solely in connection with the addition of parties. Therefore, I do not find any merit in the statement of defendant that due to proposed amendment the nature of the suit is going to be changed.

12. Undoubtedly, now the rights of proposed defendants are come in trouble and their rights are required to be determined while determining the rights of plaintiff in suit property against the defendants. So, for that extensive manner, undoubtedly, the proposed defendants and the proposed amendment mentioned in the application is one quite essential to resolve the dispute at once in between the parties. Considering the above reasons I find that the proposed amendment and addition of defendants is necessary for adjudication of the suit on merit. Defendants will have an opportunity to file their defence regarding amended pleadings. Therefore, no prejudice would cause to defendants. As far as delay by

the conduct of the plaintiff that can be compensated in terms of imposing costs. Accordingly I answer point no. 1 and 3 in affirmative, point no. 2 in negative. Finally in an answer to point no. 4 I pass following order.

ORDER

- (1) Application is allowed.
- (2) The plaintiff shall carry out the proposed amendments in the plaint within 14 days from the date of this order.
- (3) Plaintiff shall file copy of amended plaint after amendment.
- (4) Failure to amend the plaint within the time stipulated the application at Exh.56 shall be deemed to be rejected.
- (5) Costs of Rs.1,000/- shall be paid by plaintiff to defendant on or before next date.

Date: 28/11/2025

Place: Chakur

(Divya S. Karbhajan)
Jt. Civil Judge Jr. Division,
Chakur.

C E R T I F I C A T E

I affirm that, the contents of this P.D.F. file judgment/order are same, word to word, as per the original judgment/order;

Name of the Stenographer : M.B. Pathan

Court Name : Jt. C.J.J.D. and J.M.F.C., Chakur

Date of judgment/order : 28/11/2025

Date of Judgment/Order signed by

the Presiding Officer on : 28/11/2025

Judgment/Order uploaded on : 28/11/2025