

MHNG100014542025



Reg. Civil Suit No.104/2025
Ashok Vs. Chief Officer + 4

ORDER BELOW EXH.31

(Passed on this 6th May, 2026)

Read the application, say and record. Heard. Ld. Adv. for plaintiff and Ld. Adv. for defendant Nos.1 to 3. None has appeared for defendant No.4 for argument.

2] Plaintiff has filed this application seeking permission to amend the plaint and interim injunction application. He wants to add one paragraph No.11-a in the pleading and wants to add one prayer in the plaint and one prayer in the temporary injunction application.

3] Defendant Nos.1 to 3 have opposed it by filing reply Exh.34. They contend that as per the contention of the plaintiff, present application is filed in view of the written statements of the defendant Nos.1 to 4, but it is not made clear by the plaintiff as to why such proposed amendment was not there in the original plaint and temporary injunction application.

4] Defendant No.4 has opposed the application vide reply Exh.35. It is contended that proposed amendment is inconsistent with the previous pleadings. It is for the plaintiff to prove his case. On the other hand it appears that it is after the defendant Nos.1 to 4 have filed WS, this application is filed. There is no provision in CPC which allows the amendment in temporary injunction application. Therefore it is requested to reject this application.

5] Question before me is – Whether present application can be allowed in the facts and circumstances in this matter ?

6] Plaintiff himself is practicing advocate in this court. In the plaint, he contends that portion which is shown by alphabets A, B, C, D and E in plaint map, belongs to government. However defendant No.4 has made encroachment upon it and has raised the construction of toilet / lavatory. No provision is made to carry the dirty water of it. Therefore dirty water of it is leaking and is flowing along some portion of the house of plaintiff. Defendant Nos.1 to 3 authorities of Municipal Council, Umred have not been taking cognizance of his grievances. Therefore the suit is filed. It is requested to declare that construction of such toilet has been unauthorizably raised on the government land by making encroachment. Mandatory injunction is asked for to remove such construction. These are the main prayers.

7] Thus in the prayers in plaint, there is no specific prayer about the alleged leakage of dirty water through the wall of that toilet. However in the application Exh.5, prayer is made to seal that toilet and to prevent its use. It appears that such fact has been noticed by the plaintiff after going through the WS of defendant Nos.1 to 4. Thereafter this application is filed.

8] By way of proposed amendment, plaintiff wants to contend that there is construction of toilet raised by defendant No.4 on the area shown by alphabets A, B, C and D in the plaint map. One of the walls of it is shown by alphabets A and B. Such toilet is towards the southern side of house of defendant No.4. Dirty water is leaking through the above wall A and B towards east-north corner portion of the plaintiff's house. Therefore there is unhygienic condition. This pleading he wants to add in the plaint and in the application for the temporary injunction.

9] By way of proposed amendment, plaintiff wants to contend that there are no measures to stop such leakage of dirty water from that toilet. Therefore mandatory injunction is necessary to make such measures to stop such leakage. He wants to add such prayers in the plaint and temporary injunction.

10] Proposed amendment shows that basis of it is already there in the plaint pleadings. Thus it is not the case that any new story is going to be introduced. It is

true that it is not made clear by the plaintiff as to why such pleading and prayers have not been made in the plaint and temporary injunction application at the time of presenting such plaint and filing such application. However the suit is at the initial stage of hearing on temporary injunction application. Therefore it is not the case that great prejudice is going to be caused to the defendants. It is true that if the amendment is allowed, defendant Nos.1 to 4 have to file consequential WS and reply to the temporary injunction application. But such situation can be taken care of by imposing cost on the plaintiff. Proposed amendment appears to be necessary for the just and effective decision of the matter. Therefore in the interest of justice and in view of the provisions of Order VI Rule 17 read with section 151 of CPC, I proceed to pass following order.

ORDER

1. Permission seeking amendment in the plaint is allowed subject to costs of Rs. Three Hundred to defendant Nos.1 to 3 and costs of Rs. Two Hundred to defendant No.4, to be paid by plaintiff.
2. Application is accordingly allowed.

Umred.
Dated : 06/05/2026.

[S. G. Landge]
Civil Judge Sr. Dn., Umred,
Dist. Nagpur.

Certificate

I affirm that the contents of this P.D.F. file are word to word same as per original.

Name of Stenographer : Shri. C.D. Gahukar
Stenographer (Grade II)