

Regular Civil Suit No. 5 of 2019

Shivaji Girangeand ors.,

Vs.

Ramdas Dagale,

ORDER BELOW EXH. 30

The present application has been filed by the plaintiffs to file amendment copy of plaint in this suit.

02. The learned Advocate for defendant has filed say overleaf the application and resisted the application. He stating that the application is not correct and legal. He further stated that reasons mentioned in the application is not proper and this application. Hence, he prayed that the application may be rejected.

03. On perusal of record, it seems that the present amended plaint is regarding Amendment Orders dated 27/11/2025. Today, it is 21-02-2026. Basically, when an amendment is allowed, two steps are required:

1. Carrying out the amendment in the plaint, and
2. Filing the amended plaint incorporating all amendments, duly signed and verified.

04. If the party only makes handwritten or typed corrections (“carrying out the amendment”) but does not file the amended plaint, in my opinion, the amendment should be treated as not properly brought on record,

05. The Hon’ble Apex Courts have consistently held that merely carrying out the amendment in the existing plaint is not sufficient. Unless an amended plaint is filed, the amended pleadings do not become part of the Court record and the original plaint continues to prevail,

So, if the amended plaint is not filed within the time granted,

1. The original plaint remains the operative pleading.

2. The party cannot rely on the amended averments.
3. The suit proceeds as if no amendment was ever made.

06. In such circumstances, basically, right to amend may stand forfeited, unless sufficient cause is shown. In the result, the Court may dismiss the amendment for non-prosecution or treat the amendment as abandoned.

07. It is obvious, delay may attract costs on failure to comply may result in : - 1. Adverse orders,

2. Costs under Section 35 CPC, and

3. In some cases, refusal to permit reliance on amended facts.

08. Even if, the plaintiff wants to use the amendment later, he will have to:

1. File the amended plaint, and

2. File an application for condonation of delay or extension of time, explaining the default.

09. In the present application, plaintiffs have not even state any sufficient cause. The amendment order passed on 27/11/2025. However, considering the nature of the suit and in the interest of justice, in my opinion that the cost of Rs. 100/- (Rupees One Hundred) to be awarded to plaintiffs. Hence, I pass the following order.

ORDER

The application is allowed subject to cost of Rs.100/- to be paid to the defendant.

Date : 21.02.2026

Place : Igatpuri.

(Yashshree Marulkar)
Civil Judge, Senior Division,
Igatpuri.