

IN THE COURT OF CIVIL JUDGE SENIOR DIVISION AT GANGAKHED
DIST. PARBHANI

(Presided over by Shri G.B Yadav)

SpCS No. 04/2026

Rahila Begum W/o. Atta-ur-rehman & ors
Vs
Madhusudan Manikrao kendre & ors

ORDER BELOW EXH. 36

1 Perused the application and say filed on behalf of defendants. Heard Adv. K.S. Daithankar for plaintiff and Adv. S.A. Deshpande for defendants. It is contended on behalf of plaintiff that father of defendant no. 1 to 3 has purchased the land which is on the southern side of Gangakhed-Parli Road. And it is also crystallised in the panchnama conducted by TILR. Defendant no. 1 by taking undue advantage of averments of sale trying to encroach on the land of plaintiff and therefore plaintiff wants to insert para No. 7 A. Learned Adv. for defendants strongly opposed and submitted that the proposed amendment is not at all necessary for determining the real question in controversy and therefore application liable to be rejected.

2 Before proceeding further it is necessary to mention here that prior to this application plaintiffs have filed application at exh 31 for the same relief as claimed in this application for amendment of pleading and inserting para no. 7A. By order dated 7-05-2026 this court has rejected the application at exh. 31 observing that the proposed amendment is not at all necessary for the deciding issue in controversy. If we look towards the contents of the present application it seems to be similar. When this court has already held that the proposed amendment is not at all necessary for deciding issue in controversy then whether this court can give contrary finding to the earlier finding recorded in Exh. 31. or Whether it is permissible for the plaintiff to file application for the same relief on the same ground.

3 The answer is no. It is not permissible in law to blow hot and cold in same breathe. The order passed below Exh. 31 is intact in such circumstances it would be

unjust to give controrary finding in this application and held that the proposed amendment is necessary. Considering all these aspect. I procced to pass following order.

ORDER

Application stands rejected.

Date: 10th June 2026

(Gajanan B. Yadav)
Civil Judge Sr. Dn. Gangakhed