

CNR NO. MHPU100000262026



IN THE COURT OF CIVIL JUDGE (JR. DN.) P.C.M.C. COURT AKURDI, PUNE.
R.C.S. No. 25/2026
<u>Haribai Hanumant Jamadade Through Satish Jamadade</u>
-Vs-
<u>P.C.M.C. & Ors.</u>

ORDER BELOW Exh. 41

(Passed on 10/07/2026)

This is an application filed by the plaintiff under Order-6 Rule-17 of the Code of Civil Procedure, 1908 (For the sake of brevity hereinafter will be called as “C.P.C.”) for amendment in plaint.

2. Called say of defendants. Defendant no. 1 to 4 have given their say below Exh.45. Counsel for defendant no. 5, 6 and 8 orally opposed the application.

3. Counsel for plaintiff submitted that, initially they have filed the suit against defendant no. 1 to 8, thereafter, summons issued against them. Except defendant no. 7, the summons served upon remaining defendants. In regard of defendant no. 7 the Bailiff report brought on record, which disclosed that, defendant no. 7 is expired. They submitted that, Balasaheb Yashwant More who is son of Yashwant More have made an application towards the defendant

(2)

no. 1 as Ba. Yashwant More and defendant no. 1 also replied ignoring the word Ba. in the name of Yashwant More and this plaintiff also acted as per the notice of defendant no. 1. Therefore, they wants to add Balasaheb Yashwant More as defendant no. 7(1) and insert the word 'expired' in front of defendant no. 7 Yashwant More. Therefore, now it is necessary to amend in the plaint and wants to add proposed amendment in the title of suit and there is no harm to the defendants. Lastly he prayed for to allow the application.

4. Counsel for defendant no. 1 to 4 have strongly opposed the application. They submitted that, the application is not tenable and not proper. The application is misconceived and not bonafide. The plaintiff have filed this application to prolong the hearing on exh. 05. There is no merit in the application. Lastly, he prayed for to reject the application with heavy costs. Counsel for defendant no. 5, 6 and 8 also strongly opposed the application.

5. Heard learned counsel Smt. Jamadade for plaintiff, learned counsel Shr. M. G. Bhapkar for defendant no. 1 to 4 and learned counsel Shri. Gaikwad for defendant no. 5, 6 and 8 at length. The following points arise for my consideration. My findings thereon are as follows with following reasons.

S. NO.	<u>POINTS</u>	<u>FINDINGS.</u>
1.	Whether the proposed amendment is necessary for resolve the controversy between the parties?	... Affirmative.
2.	What order ?	... As per final order.

REASONS

6. AS TO POINT NO.1 and 2 :

Considering the material on record I have taken point no. 1 to 2 together, for discussion. Before going into the discussion, I would like to mention here the provision O.6 R.17 of CPC.

Order VI Rule 17 Amendment of pleadings:- *The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purposes of determine the real questions in controversy between the parties:*

Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.

7. Perused whole record. It seems that, suit is filed for declaration, permanent and mandatory injunction. It is admitted fact that, initially the suit was filed against the defendant no. 7, which is already died. As per the argument of plaintiff, he have filed the suit against defendant no. 7 on relying notice which was given by defendant no. 1 to the original defendant no. 7. The application is supporting with affidavit. I think it is a bonafide mistake. Though, the application is not filed under Order 22 Rule 4 of CPC which is relating to the legal heirs of defendant to brought on record. But, without going into the technicalities, and submission by both sides Counsel it is necessary to amend in the title clause of suit. The proposed amendment is not hurdle or change the nature of suit.

8. Therefore, for the ends of justice and for proper adjudication of trial and to decide the real controversy between the parties in dispute, application is entitled to be allowed. There is no harm to the defendants. Hence, I answer point no. 1 in the affirmative and for point no. 2, I proceed to pass the following order:

ORDER

- 1) The application is hereby allowed.
- 2) The plaintiff is directed to carry out proposed amendment and to add Shri. Balasaheb Yashwant More as a defendant no. 7(1) and file the amended copy of plaint on record till next date.
- 3) The plaintiff also directed that, suit summons be served upon defendant no. 7(1) Balasaheb Yashwant More without fail.

Dated: 10/07/2026.

Sd/-xxx
(V. S. Damare)
Civil Judge Junior Division
(P.C.M.C. Court), Akurdi, Pune.

CERTIFICATE

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

Name of Stenographer	:-	Gaurav A. Bobade (Grade III)
Court Name	:-	Shri. V. S. Damare, Civil Judge Junior Division, (P.C.M.C.), Court, Akurdi, Pune.
Date	:-	10/07/2026.
Order signed by presiding officer on	:-	10/07/2026.
Order uploaded on	:-	10/07/2026.