

ORDER BELOW EXH.58 IN R.C.S. No. 2/2016

The Evangelical Alliance Ministries Nasik

Vs.

Ajinkya Konde

(Passed on 08/07/2025)

01. This is an application filed by the plaintiff under Order VI Rule 17 of the Code of Civil Procedure for amendment of plaint. It is contended that the suit is filed for mandatory and permanent injunction restraining the defendant from entering into and interfering with the suit property. The defendant is asserting his right based on an alleged resolution and appointment letter dated 20/09/2014 issued by Mr. Vijay Khisty and Mr. Rajendra Khisty, who are alleged to have no legal authority under the trust. The plaintiff states that said documents are void-ab-initio and their existence is likely to be misused by the defendant. It is further contended that though the pleadings regarding illegality of those documents are already on record, a prayer for declaration was inadvertently omitted. The present amendment seeks to add a declaratory relief declaring said documents as null and void. Hence, prayed to allow the application.

02. Defendants have filed their say at Exh. 64 and objected to the said application. It is contended that the application is not maintainable at this stage, being delayed and after framing of issues. It is submitted that the trustees who filed the suit have no authority and that the defendant's appointment is legal. It is also argued that allowing such amendment will change the nature of the suit, cause prejudice, and result in delay. Hence, prayed to reject the application

with costs.

03. Heard both parties, perused the record.

04. On going through the plaint and record, it is seen that the suit is for mandatory and permanent injunction. The pleadings already contain allegations that the defendant's appointment as manager is illegal and unauthorized. The documents now sought to be declared as null and void were already referred and relied upon in the plaint and are part of the record. The relief of declaration now proposed is directly connected with the existing cause of action and does not introduce a new or inconsistent claim. It is well settled that under Order VI Rule 17 of the Code of Civil Procedure, the court has wide discretion to allow amendment of pleadings where it is necessary for the purpose of determining the real questions in controversy between the parties. In the present case, the proposed amendment is not a belated afterthought but is based on existing pleadings and documents. The nature of the suit does not change, and no prejudice is caused to the defendant, who is at liberty to file additional written statement. The amendment would aid in complete adjudication of the dispute. Therefore, in the interest of justice and proper adjudication, the application deserves to be allowed. Hence, I proceed to pass the following order:

ORDER

- 1) Application below **Exh.58** is allowed subject to cost of Rs. 500/- to be paid to T.L.S.A. Bhor.

- 2) The plaintiff is directed to carryout the amendment within 14 days from the date of order.

Pune.
Date : 08-07-2025

[Smt.Meena W. Jadhav]
Jt. Civil Judge, Jr.Div., Bhor

CERTIFICATE

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

Name of the Court :- Hon'ble Smt. Meena W. Jadhav
C.J.J.D. & J.M.F.C., Bhore, Pune

Name of the Steno :- M. S. Kondhare L.G.

Date of Order :- 08/07/2025

Signed by P.O. :- 08/07/2025

Order uploaded on :- 09/07/2025