

Order below Exh.123 in R.C.S.No.124/2000

Krushna Shete Vs. Shivaji Mane & Ors.

(Passed on 21/02/2026)

1. The plaintiff has filed the present application to review the order passed below Exh. 113, preferred by the defendant for amendment in written statement.
2. The plaintiff contended that the defendant had obtained the said order by suppressing material facts from the Court. It was pointed out that the defendant had already filed RCS No. 132/1987 before the Civil Judge, Junior Division, Bhore, seeking a declaration and permanent injunction against the present plaintiff in respect of the same property. In that suit, the defendant had limited his claim to 35 R out of Survey No. 185, Hissa No. 3(A)1. The plaintiff further stated that in the earlier suit, the defendant's attempt to amend the property description from 35 R to 3 Acres 5 Gunthas through an application below Exh. 280 had been rejected by the Court on 22 March 2021, and that order had attained finality as it was never challenged. Despite this, the defendant, while suppressing the said fact, again sought a similar amendment in the present suit through Exh. 113, which was wrongly allowed by the Court. According to the plaintiff, this suppression amounted to playing fraud upon the Court, resulting in an erroneous order that caused serious prejudice and infringed the plaintiff's rights.
3. The plaintiff therefore prayed for recalling and reviewing the order passed below Exh. 113, for rejection of the defendant's

application, imposition of costs on the defendant, and passing of any other appropriate orders deemed just and proper.

4. The defendant No.1 has filed his say at Exh.126 and strongly objecting the application by contending that, the present suit has been filed by the plaintiff for perpetual injunction and declaration, and the description of the suit property was mentioned in the written statement. It is submitted that due to inadvertence and oversight, the area of the suit property was wrongly mentioned as 0 H 35 R in the written statement, whereas in fact the defendant's claim pertains to 3 Acres 5 Gunthas of land. The defendant further submits that in other litigations concerning the same property, including civil proceedings before the Civil Court at Pune, the area has consistently been described as 3 Acres 5 Gunthas, and even measurement orders were passed by the Pune Court considering the said area. The mistake in the present written statement came to light only after the defendant engaged a new advocate and discussed the matter, whereupon the defendant filed an application seeking correction of the description, which was allowed by the Court, and the amendment has already been carried out.

5. It is further contended that though a similar amendment application in R.C.S. No. 132/1987 was rejected, that fact alone cannot be a ground to recall the order passed in the present suit. The order below Exh. 113 was passed on merits after hearing both parties, and the plaintiff had raised objections at that time. The plaintiff has not challenged the said order by way of appeal and

therefore cannot seek review now. According to the defendant, the actual extent of his claim will be established during the course of evidence, and the present review application has been filed only to delay the proceedings. Hence, defendant No. 1 has prayed that the plaintiff's application be rejected with costs.

6. From the rival submissions and material placed on record, following points arise for my determination:

Sr. No.	Points	Findings
1)	Whether the plaintiff proves that the order dated 16/11/2021 passed below Exh.113 requires review on the ground of suppression of material facts or error apparent on the face of record?	In the negative.
2)	What order ?	As per final order.

:: REASONS ::

As to Point No. 1:

7. The scope of review jurisdiction is very limited. A review can be entertained only when there is an error apparent on the face of record, discovery of new and important matter which could not be produced earlier despite due diligence, or any other sufficient reason within the meaning of Order 47 Rule 1 of the Code of Civil Procedure. A review cannot be treated as an appeal in disguise for re-hearing the matter on merits. In the present case, the record shows that the application below Exh.113 was decided after hearing both parties and after considering the objections raised by the plaintiff.

The amendment allowed pertains to description and extent of property in the written statement and does not finally determine rights of the parties. The correctness of the defendant's claim regarding extent of land is a matter which will be adjudicated during trial on the basis of evidence.

8. *"It is well settled that review jurisdiction is very limited and cannot be exercised as an appellate jurisdiction"*. Reference may be made to the principles laid down by the Hon'ble Supreme Court in *Kamlesh Verma vs Mayawati* (2013) 8 SCC 320, *State of West Bengal vs Kamal Sengupta* [(2008) 8 SCC 612] and *Lily Thomas vs Union of India* [(2000) 6 SCC 224.]

8. The main contention of the plaintiff is that a similar amendment application in R.C.S. No.132/1987 was rejected and that fact was not disclosed while seeking amendment in the present suit. However, rejection of amendment in another proceeding does not create any legal bar for considering amendment in the present suit, which is required to be decided on its own facts and pleadings. Even otherwise, such circumstance does not constitute an error apparent on the face of record warranting review of a reasoned order passed after hearing both sides. The order below Exh.113 was passed in the year 2021 and the plaintiff has not challenged the same before the appellate forum. The present application, in substance, seeks reconsideration of the matter which is not permissible in review jurisdiction. No prejudice is caused to the plaintiff as he will have full opportunity to contest the defendant's claim during trial.

9. Therefore, this Court is of the opinion that the plaintiff has failed to establish any ground warranting review or recall of the order dated 16/11/2021 passed below Exh.113. Hence, I answer point no. 1 in the negative and in view of the point No. 2, I pass following order -

ORDER

1. Application Exh. 123 is hereby rejected.
2. No order as to costs.

Place - Bhor
Date – 21/02/2026

(Smt. Meena W. Jadhav)
Jt.Civil Judge Jr.Division,
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., Bor, Pune

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

Date of Order :- 21/02/2026

Signed by PO. :- 21/02/2026

Order uploaded on :- 21/02/2026