

ORDER BELOW EXHIBIT-51

This application is filed by plaintiffs under Order VI Rule 17 of the Code of Civil Procedure. Application is filed on the grounds that, plaintiffs have filed this suit for declaration and perpetual injunction. Plaintiffs have sought declaration that, as per the rights under Hindu Succession Act, they are having right in the acquired land. Further, they have sought declaration that, defendant No.2 has initiated action to disburse the amount to defendant No.6 on behalf of defendant Nos.3 to 7 by ignoring the rights of plaintiffs. The action of defendant No.2 is completely wrong and illegal as it is taken during the pendency of suit. Therefore, amendment to that effect is to be necessary to carry out in this suit.

02. Plaintiffs bent upon to file this application due to the illegal act of defendant Nos.2 to 7. If amendment is allowed, nature of suit will not be changed. The amendment is necessary for the just decision of the suit. At the last, they prayed to allow the application. Application is supported by the affidavit of plaintiff Bhujangrao Rajaram Yalmar.

03. Plaintiffs have filed application on 22.08.2025. Since then, till 17.04.2026, defendants failed to file say their say. The copy of the application was received by defendants on 25.09.2025. Still failed to file their say. Hence, application is proceeded without their say.

04. Heard Ld. Advocate Shri. D. S. Deshmukh for the plaintiffs. He has submitted that, plaintiffs have filed suit against defendants as joint property of plaintiffs and defendant Nos.3 to 7 was acquired for National Highway. They are having their share in suit land but defendant No.2 in collusion with defendant Nos.3 to 7, tried to pay the entire amount to defendants by excluding right of plaintiffs. After filing of the suit, summons were issued to defendants when they received the summons, they get knowledge about the pendency of the suit. Despite of that, defendant No.2

in collusion to other defendants tried to pay the amount of compensation to other defendants. If they succeed in their goal then plaintiffs will be deprived from their legal and valuable right. Their very purpose of filing this suit, will be frustrated. As such, the illegal acts of defendants are necessary to bring on record by the amendment. In support of his submission, he has relied on the observations laid down by the Hon'ble Bombay High Court in the case of ***Pravin Girish Chamaria & Anr. Vs. The State of Maharashtra & Ors. held in 2025[2] ALL MR 513***. The Hon'ble Bombay High Court has observed that :- apportionment of compensation by Land Acquisition Officer issued an order directing that, compensation be divided equally 25% each among four partners. However, Land Acquisition Officer is empowered only to determine persons entitled to receive compensation but lacks jurisdiction to decide disputes regarding apportionment. In case of such disputes Land Acquisition Officer must refer matter to Principal Civil Court of original jurisdiction as per Section 19C(4) of Maharashtra Highways Act which is *pari materia* to Section 3H(4) of National Highways Act. Any order by Land Acquisition Officer directing apportionment of compensation without such reference is without jurisdiction and liable to be set aside.

05. At the last, Ld. Advocate Shri. Deshmukh has submitted that, this application is filed at the initial stage. Therefore, proviso Order VI Rule 17 of Code of Civil Procedure will not be applicable to present case and prayed to allow the application as the nature of suit will not be changed if the amendment application is allowed. Defendants and their Advocates are absent when called.

06. After hearing the submissions of Ld. Advocate Shri. Deshmukh, I have gone through the observations laid down by the Hon'ble Bombay High Court in the cited case. The ratio in the cited case and the facts of the case before me are identical. In this case also Sub Divisional

Officer has passed an order to pay the apportionment of the compensation amount to some of the defendants by excluding right of plaintiffs. As observed by the Hon'ble Bombay High Court, the Sub Divisional Officer can only identify by the name of persons who are entitled to receive the compensation but he has not entitled to decide the share of those people. Considering this legal position, this Court is having jurisdiction to decide said dispute and therefore, application for amendment can be considered.

07. While considering the application under Order VI Rule 17 of Civil Procedure Code, first of all it is necessary to consider as to whether the nature of suit will be changed if the application is allowed and second thing whether the application is hit by the proviso of said order.

08. In this case, as the application is filed at initial stage yet the trial is not commenced. Therefore, the application will not hit by the proviso of Order VI Rule 17 of the Code of Civil Procedure. Further, the suit is filed for declaration and perpetual injunction regarding compensation amount. Plaintiffs are seeking amendment regarding the order passed by the Sub Divisional Officer which is also with regard to the compensation amount. As such, if the application is allowed, nature of suit will not be changed. After considering this legal position, if Order VI is minutely perused, it is expected to legislature that, if the application is not hit by the above two conditions then any application for amendment should be allowed. As such the application filed by plaintiffs to amend the plaint and to insert the pleadings regarding the order of Sub Divisional Officer which is passed during the pendency of the suit. If this application is not allowed then there may be multiplicity of litigation as well as there may be complications. Hence, the application filed by the plaintiffs deserves to be allowed. I therefore, passed following order:-

4 R.C.S. No. 1/2021.
Bhujangrao & Ors. Vs. State & Ors.

ORDER

Application filed by the plaintiffs under Order VI Rule 17 of the Code of Civil Procedure is allowed.

02. Plaintiffs to carry out necessary amendment within 14 days from the date of order and submit amended plaint forthwith.
03. Costs in cause.

Date : 09.06.2026

(M. B. Kulkarni),
2nd Civil Judge, Senior Division, Pandharpur.

C E R T I F I C A T E

I affirm that contents of this PDF file Order /Judgment are word to word same, as per the original Order /Judgment.

Name of the Stenographer	: Shripad N. Chilka
Name of the Court	: 2 nd Jt. Civil Judge, Sr. Division, Pandharpur.
Judgment / order signed by the Presiding Officer on	: 09.06.2026
Judgment / Order uploaded on	: 09.06.2026