

MHST070021962022



Order below Exh. 76 in R.C.S No. 322/2022
(Bajirao Mohite + 2 Vs. Vishwas Mohite +4)

The plaintiffs have filed the present application to grant permission to amend the plaint, as provided under Order VI Rule 17 of Code of Civil Procedure, 1908.

2. Perused the application, reply Exh. 78, pleadings, documents and the record. Heard the learned Adv. S. R. Nikam for the plaintiffs and the learned Adv. R.C. Shaha for the defendants.

3. The plaintiffs have contended that, the defendants applied before the Tahasildar the relief of proceeding way in the authority of revenue dispute under section 143 of Maharashtra Land Revenue Code, 1966. The said proceeding way is claimed from the agricultural property of the plaintiffs. The relief of mandatory injunction is sought in respect of the same. In the said proceeding, the order by Tahasildar was passed on 02.02.2024 and the order passed in appeal before Sub-Divisional officer on 07.11.2025. Both the orders were made during the continuance of the suit. Both the orders are of dismiss. The plaintiffs wants to bring such subsequent facts on record. It does not affects due diligence. The said fact requires to be brought on record. It will assist the Court to resolve

the controversy finally. Hence, this application.

4. The defendants have strongly opposed the application. They have contended that there is no nexus of the proposed facts and the suit dispute. The amendment is not legal and intended to prolong the matter. It is sought after admissions came in the evidence. The copies were available on 07.11.2025, however the application is made after 4 months. The application is malicious. Hence, prayed for rejection of application with heavy costs of Rs. 5,000/-.

5. On perusal of averments in plaint, it reveals that the plaintiffs have contended that despite of having existence of sufficient way to proceed from southern and northern side of the properties of the parties, the defendants are claiming the right of way from the agricultural properties belonging to the plaintiffs. For that reason, the defendants have applied before the revenue authority. Thereby, the plaintiffs have sought the relief of mandatory injunction against the defendants that they should not create any way from their property. In the plaint, it is pleaded that the proceeding is pending before the Tahasildar. However, during the pendency of the suit, the decisions are made by the Tahasildar and Sub-Divisional officer. Therefore, they are subsequent events during the pendency of the suit. As the pleading is made as to the revenue proceeding, therefore, the decisions made in that regards are material to decide the suit. Hence, the proposed amendment is having relevancy with the controversy involved in the suit. It does not prejudicial to the

defence. Therefore, the application deserves to be allowed. Hence, I pass following order.

ORDER

1. The application Exh. 76 is allowed.
2. The plaintiffs are permitted to amend the plaint as proposed in the application, within 7 days.
3. The defendants will have right to make consequential amendment to the extent of proposed amendment.
4. Application is disposed of accordingly.

Place : Karad.
Date : 13.03.2026.

(Sudhir M. Bomidwar)
Jt. Civil Judge, Jr.Dn., Karad.