

ORDER BELOW EXH. 66 IN R. C. S. NO. 240 OF 2020.
(Hanmant Jyoti Shelke and Others Vs. Dadaso Jyoti Shelke and Others)
(Passed on 18th November, 2025)

01. This is a suit filed for partition, separate possession and perpetual injunction. The record reveals that the plaintiffs have presented this suit for registration on 23.11.2020. The suit came to be registered on 04.12.2020. The plaintiffs, thereafter, moved an application for amendment of the plaint and addition of parties (Exh 56) dated 07.10.2024. From the amendment application(Exh 56) and review application(Exh 66), it appears that the plaintiffs, through this amendment, wish to bring some new things on the record. The plaintiffs relied upon a series of sale deeds and related transactions dating from 1989 up to 2014.

02. On perusal earlier application for amendment Exh. 56, it appears that it was rejected by my Ld. Predecessor by passing an order dated 03.01.2025. The reasons recorded by my Ld. Predecessor, briefly, were (a) the proposed facts relate to transactions and sale deeds antecedents to the date of institution of this suit and hence, were preexisting facts which could and ought to have been pleaded at the time of institution of this suit, and (b) the plaintiffs had failed to give any specific explanation or sufficient cause for omission in seeking the proposed amendment.

03. The plaintiffs have now filed the present review application seeking review of the earlier order passed by my Ld. Predecessor dated 03.01.2025, below an amendment application (Exh 56) on the ground that the order contains an error of law apparent on the face of the record.

04. Per contra, the defendants opposed to review application

by filing their say(Exh 68). They submit that the review application is nothing but a re-agitation of the same case which was considered earlier by my Ld. Predecessor on merit. They further submit that there is no ground for review within the preview of an Order XVII Rule 1 and Section 114 of the Code of Civil Procedure, 1908. They further submit that if the application is allowed, it will cause great hardship to them. They further submit that the plaintiffs have not mentioned in this application whether they have challenged to order passed by my Ld. Predecessor on the amendment application (Exh 56) by filing an appeal. They further submit that the plaintiffs have filed an instant application to prolong the matter. Lastly, they prayed to reject the application.

05. Heard Ld. Advocate N. D. Waghmode for plaintiffs and Ld. Advocate P. N. Patil for the defendants. I have given conscious consideration to the submission of Ld. Advocate for both sides. I have gone through the application and say.

06 On perusal of the instant application (Exh 66), it appears that the plaintiffs have not mentioned in the application that they have discovered any new document or information or evidence which could have been produced by them earlier on the record. The plaintiffs have not produced any affidavit or material that shows these sale deeds are inaccessible to their knowledge. On perusal of the order passed below Exh. 56 by my Ld. Predecessor, it appears that it is a reasoned order. Also, the order shows that my Ld. predecessor has recorded reasons which are not self-contradictory. The complaint in the review application that my Ld. predecessor has not followed the procedure incorporated in the civil manual is not a sufficient or satisfactory explanation by the plaintiffs, which would constitute an error apparent on the face of the record. In my

considered view, the order passed by my Ld. Predecessor below Exh. 56 is not vitiated by any error on its face. The plaintiffs have not pleaded any exceptional circumstances; they have not mentioned why the facts mentioned in the amendment application (Exh 56) were introduced at the time of drafting the plaint or institution of the suit. They have not given a proper explanation regarding the absence of these records at the time of filing the suit or not. On perusal of the amendment application (Exh 56), it reveals that all the facts which are mentioned in the amendment application and which are wanted to be inserted in the plaint by the plaintiffs were antecedent and within the knowledge of the plaintiff for years. Therefore, no sufficient reason within the narrow scope of review is shown. In my considered view, by allowing an amendment which reaches back to a long series of transactions, i.e. from 1989 to 2014, after suit was filed in 2020 and also seeking to add parties at this stage, would open scope for fresh issues and fresh evidence. In my considered view, if the application is allowed, it will cause great hardship or prejudice to the defendants. I do not find that the plaintiffs have disclosed any ground for review under Section 114 and Order XLVII, Rule 1 of the Code of Civil Procedure, 1908. I do not find that there is any mistake or error apparent on the face of the record in the order passed by Ld. Predecessor below Exh. 56. Hence, I pass the following order.

ORDER

1. Application Exh 66 is hereby rejected.
2. No order as to costs.

(Salim P. Sayyed)

Date: 18.11.2025

2nd Jt. Civil Judge, Jr. Division, Vaduj.