

MHYA240001002025



ORDER BELOW EXH.-86

1) This is an application filed by the plaintiffs under Order VI Rule 17 of the Code of Civil Procedure (hereinafter referred to as 'C.P.C.') for amendment in the plaint.

Contents of the application, in brief, as under :-

2) The plaintiffs have filed this suit for declaration and perpetual injunction. On 16/04/2025 plaintiffs came to know that plaintiff No.2(E) has died on 17/09/2024 and they have filed said pursis on record and they want to delete the name of plaintiff no.2(E) from the suit by amending the plaint. Hence, this amendment application has been filed.

3) Defendant nos.4 and 6 to 13 have filed their say overleaf of the application and given No objection to the application. However, the contesting defendants who have filed W.S. are 4 to 6 and 9, 11, 15, 20, 21, 22, 24, 25, 27, 34, 35, 38, 43, 45, 52, 54, 56, 58 and 59 and there is ex parte order against other defendants.

4) However, this application has been opposed by defendant nos.1 to 3 by filing overleaf say through A.G.P. by contending that there is no specific reason in the application. Hence, it has been opposed and has prayed for passage of suitable order.

5) Heard Ld. Counsel of plaintiff and defendant no.1 to 3.

Counsel for the other defendants is absent. Perused entire record.

6) From the above pleadings, following points arise for my determination. I have recorded my findings to those points for the reasons stated there in below.

<u>Sr. No.</u>	<u>Points</u>	<u>Findings</u>
1)	Whether proposed amendment is necessary for determining real questions in controversy between the parties ?	..Yes.
2)	Whether proposed amendment will change the nature of the suit ?	.. No.
3)	What order ?	.. As per final order.

REASONS

AS TO POINT NOS. 1 to 3 :-

7) This is a suit for declaration and perpetual injunction in which the order of Tahsildar, Wani defendant no.3 in Revenue case has been questioned. This suit has been filed by plaintiff nos.1 to 3 against 59 defendants.

8) The plaintiff no.2 had died therefore, his L.R's No.2A to 2E have been brought on record as per Exh.70 order.

9) The defendant nos.1 to 3 who are State of Maharashtra and public authorities have opposed the suit by contesting W.S. Exh.28 and 29 and above mentioned defendants have also filed contesting W.S. vide Exh.31. Issues have been framed vide Exh.68.

10) By the present application plaintiffs intend to delete plaintiff no.2(E) namely Amit Ramchandra Pawade who is reported to be dead on 17/09/2024 and who was one of the L.R's of plaintiff no.2.

11) Perusal of Exh.85 which is pursis of the plaintiffs reveals that the said plaintiff no.2(E) was bachelor and there are no other L.R's of him except plaintiff no.2(A) to 2(D) who are already on record.

12) Hence, grant of proposed amendment is necessary because it is due to death of one of plaintiffs. Moreover, it is necessary to allow the said application to determine the real question in controversy between the parties. It is important to note that, if the application is allowed then the nature of the suit will not be changed and defendants would get fair opportunity to contest it. Hence, to avoid the multiplicity of litigation and to enable court to determine real question in controversy between the parties an in my view the application is deserves to be allowed.

13) In view of this discussion, I have recorded findings of point Nos. 1 and 2 accordingly and in answer to point No. 3 following order is passed.

ORDER

- 1) Application, Exh.- 86, is hereby allowed.
- 2) The plaintiffs are directed to carry out the proposed

(4) R.C.S. No.- 78/2025
Keshav Govinda Satpute & ors. Vs. State of Mah. & ors.

amendment in the plaint within 30 days and file
amended copy.

Date : 10/11/2025.

(P. S. Jondhale)
Civil Judge (Sr.Dn.),
Wani.