

CNR NO. - MHPU02-005157-2013

Balasaheb Vithal Chinchwade & Ors.

Vs.

M/s Goodwill Developers



Order Below Exhibit No.145
(Decided on 01/01/2026)

This is an application made by plaintiffs under Order VI Rule 17 of the Code of Civil Procedure (*for the sake of brevity hereinafter referred to as "CPC" in short*) for seeking permission to amend the plaint as proposed in the instant application. I have read the application in detail.

2] Defendant has resisted this application vide its reply filed on 11.07.2025 (Ex No.147). I have perused it minutely.

3] I have heard arguments of both sides.

4] Now, it is necessary to go through the provisions of Order VI Rule 17 of CPC. It confers jurisdiction on the court to allow either party alter or amend his pleading at any stage of the proceeding and on such terms as may be just. Such amendments as are directed towards putting forth and seeking determination of real controversy between the parties, shall be permitted to be made. However, it provides that it shall not be allowed after the commencement of the trial unless the court is satisfied that despite of due diligence, party could not have raised the matter before commencement of trial.

5] Record shows that on 17.01.2019 vide Ex.112 issues are framed. When this application was made matter was pending

for evidence of plaintiffs. Now let's see what is proposed to be inserted by way of amendment and whether it is based on the event occurred prior or after the commencement of trial. It is contended in the application that "during the pendency of present suit, plaintiff No. 11 i.e. Mrs. Nutan Vikas Kature has released and relinquished all and whatever undivided share she had in the suit property and other properties owned by the plaintiffs family in favour of her real brothers namely Mr. Manoj and Sanjay i.e. plaintiff No. 3 and 7 in the present suit. This fact therefore necessary to be brought on record by making necessary amendment in the plaint by inserting Para after Para No. 28 as proposed in the present application".

6] In support of this application, plaintiffs have produced on record certified copy of registered Release Deed dated 06.12.2023, which made it necessary to make this application. Recitals of the said registered Release Deed corroborate the contents of the present application. From its date it is evident that it has been executed recently. Admittedly the Release Deed is in respect of properties including property in dispute in the instant suit. As such, said transaction is necessary to be brought on record in order to deal with matter in controversy more effectively and completely. Considering the nature of dispute involved in the present suit, I am of the opinion that plaintiffs are necessary to be permitted to incorporate this fact by inserting para after Para No. 28 as proposed in the present application. What would be the effect of this Release Deed is not required to be adjudicated at this stage. It will be decided at the end of the trial. So, the objections

taken by defendants in that regards do not hold any water at this stage.

7] It is well settled legal position that plaintiff is dominus litis i.e. master of the suit, who decides who would be the party to the suit. If based on any subsequent event plaintiff wants to implead or delete the name of any of the party to the suit, he has to take the recourse of Order I Rule 10 of C.P.C. and while deciding such application, it would be incumbent on the part of court to decide whether the proposed party is either necessary or proper party to the suit, so as to implead or delete him/ her from the suit. I emphasized this fact because in Para No. 2 of the present application it has been written, “a. Their title of the suit name of plaintiff No. 11 i.e. Mrs. Nutan Vikas Kature may kindly be allowed to be deleted.”

8] This is not an application under Order I Rule 10 of C.P.C. Under Order VI Rule 17 of C.P.C. party cannot be impleaded or deleted from the suit. Proposed amendment is based on the subsequent event occurred during the pendency of present suit. Admittedly this suit has been filed for cancellation of agreement to sale and power of attorney, so also for partition and mesne profit to the tune of Rs. 20,00,000/-. It is also an admitted fact that plaintiff No. 11 was party to the agreement to sell and power of attorney. When this suit was filed and when the transaction in dispute was entered into, registered release deed executed by plaintiff No. 11 in favour of plaintiff No. 3 and 7 was not in existence. The existence of the Release Deed may vary the shares of the plaintiffs, if the relief of partition is decided in their favour.

But, so far as the relief of cancellation of aforesaid two deeds are concerned, presence of plaintiff No. 11 in the suit is necessary. Because in her absence the said relief cannot be properly decided. So, existence of release deed may loose the status of plaintiff No. 11 as necessary party but she remains a proper party to the suit. So, even if present application is treated under O. I Rule 10 of CPC, she cannot be permitted to be deleted from the title of the suit.

9] Considering all above facts and circumstances, I have come to the conclusion that present application deserves to be partly allowed to the extent of insertion of a Para after Para No. 28 in plaint as proposed in the present application. Hence order :

ORDER

1. The application is hereby partly allowed.
2. Plaintiffs are permitted to amend the plaint as proposed in bold letters in Para No. 2 of the present application.
3. No order as to cost.

[Dictated and declared in open Court]

Pune.

Date:- 01.01.2026.

(Ketaki M. Chavan)

Addl. Judge, Small Causes Court &
Jt.C.J.S.D., Pune.

CERTIFICATE

I affirms that, the contents of the P. D. F. file order are same word for as per original order.

Name of Steno	M. V. Chavan
Court Name	Ketaki M. Chavan Addl. Small Causes Judge, & Jt.C.J.S.D.,Pune.
Date	01.01.2026
Order signed by Presiding Officer on	01.01.2026
Order uploaded & PDF on	01.01.2026