

Order Below Exh. 83 in Regular Civil Suit No. 05/2026
(CNR No. MHYA090000262026)

This is an application whereby the plaintiffs have prayed for leave to amend the plaint. By way of amendment, they wish to incorporate a prayer for mandatory injunction. So also, they wish to add contentions about payment of additional court fees in respect of the additional prayer which they are making. Further, the consequential amendments are sought to contend that inspite of the words that the defendants are 'carrying work of installing solar panels' in the suit property, the words 'the solar panels installed' in the suit property, are sought to be substituted.

02. Pertinently, during pendency of the suit, defendant No.4 has made an application for impleading it as a party defendant. Said application is allowed by this Court. Thereafter, the plaint was amended by the plaintiffs and defendant No.04 is made a party defendant. According to plaintiffs, at the time of institution of suit, at the instance of defendants No.01 to 03, defendant No.04 was installing solar panels in the suit property. However, now, defendant No.04 has completed work of installing solar panels. Thus, they are adding the prayer for mandatory injunction for removal of those solar panels. Consequential amendment, as aforesaid, are also sought accordingly.

03. Application is opposed by the defendants on the ground that such amendments was to be prayed by the plaintiffs when they made

earlier application for amendment. Moreover, the plaintiffs are just trying to take undue advantage of an order of status quo granted in their favour on 10.04.2026 vide order below Exh.05. Accordingly, to prolong the suit and hearing on application at Exh.05 (an application for temporary injunction), the plaintiffs have made present application. As such, it is liable to be rejected.

04. Perused the record. Heard learned advocate Mr. R. V. Bhoyar for the plaintiffs, learned AGP Mr. D. M. Nimkar for defendant No.1 to 6 and learned advocate Mr. G. P. Khairkar for defendant No.07.

05. It is noticeable that the trial of suit has not yet commenced. Thus, all such amendments which are necessary for deciding all the questions in controversy between the parties can be allowed, in view of provisions of Rule 17 of Order VI of the Code of Civil Procedure, 1908. No doubt, the plaintiffs had to seek present proposed amendment when they made earlier application for amendment. However, they are represented by an advocate. As such, it was the duty of concerned advocate to seek all the necessary amendment. Lapses on the part of the concerned advocate in seeking the amendment as required shall not result in injustice with the client. Litigant shall not suffer due to some error or mistake by the concerned advocate. In such circumstances, when the amendment is otherwise permissible cannot be refused only because it could be sought by way of earlier application.

06. The amendment as prayed is said to have necessitated due to development took during pendency of the suit. As such, the amendment as prayed can be allowed. Accordingly, I pass following order

ORDER

1. Application is allowed.
2. The plaintiffs shall carry the amendment, as permitted, till next date and file copies of amended plaint on or before next date.

Place : Kelapur.
Date : 10/07/2026.

(B. D. Tare)
Civil Judge Senior Division,
Kelapur

- : C E R T I F I C A T E : -

I affirm that the contents of this Pdf file order are same words as per original order.

Name of Steno :- J. G. Thakre

Court Name :- The Court of Civil Judge
(S.D.), Kelapur.

Date of Order :- 10/07/2026

Order signed by PO. on :- 10/07/2026

Order uploaded on :- 10/07/2026