



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 119 OF 2026

Fatima Akhtar Hussain Shaikh & Anr.

...*Petitioners*

V/s.

Shaikh Azam Mohammad Yusuf & Ors.

...*Respondents*

Mr. Sumit Kothari, *for the Petitioner.*

Mr. Khwaja Shaikh *with Ms. Shagufta Shaikh, for Respondent Nos.1 to 3.*

CORAM: SANDEEP V. MARNE, J.

DATED: 6 May 2026.

P.C.:

1) The petition challenges order dated 17 November 2025 passed by the District Judge-24, Pune rejecting application at Exhibit-53 seeking amendment of Written Statement during pendency of the Appeal.

2) I have heard Mr. Kothari, the learned counsel appearing for the Petitioner and Mr. Shaikh, the learned counsel appearing for the Respondent.

3) I have considered the submissions canvassed by them and have gone through the reasons recorded by the Appellate Court in the



impugned order. I have also perused the records of the case filed alongwith the petition as well as compilation.

4) Perusal of application for amendment at Exh.53 would indicate that the Plaintiff did not plead even a single reason as to why the averments sought to be introduced vide amendment were not incorporated in the Written Statement. The main reason for filing application for amendment of Written Statement is to introduce pleadings relating to availability of additional premises for the Plaintiff to defeat the ground of bonafide requirement. The Petitioner-Defendant has already pleaded in para-10 of the Written Statement that Plaintiff has other alternate premises available for residence. Having pleaded the said case, the Defendant ought to have elaborated the same by leading evidence. The Defendant however failed to lead evidence in respect of the additional premises available for Plaintiff to accommodate his family. Perusal of the judgment of the Trial Court would indicate that Defendants sought to lead evidence about availability of premises at Kondwa with the Plaintiff. However, the Trial Court has recorded finding of Kondwa property being owned by Shaikh Usman Yusuf Mulani and Roshan B. Mulani and not by the Plaintiff. Now Defendant wants to introduce averments in respect of availability of three additional premises viz (i) additional premises within the suit structure, (ii) additional premises at House no.780, Dastur Meher Road, Camp Road, Pune and (iii) house at Kondwa. However, there is no averment in the application as to why the said averments were not incorporated in the Written Statement. The plea raised in para-3 of the application that information about availability of additional premises was secured by the Defendant after passing of the decree of the Suit does not appear to be otherwise believable in view of the fact that Defendant had set up a case for



availability of premises at Camp, Pune and Kondwa during trial of the Suit.

5) So far as the premises described in proposed amended para-10A of the Written Statement are concerned, the same are within the suit structure and there is no question of Defendant not having knowledge about the said premises after decree of the suit.

6) Considering the above position, filing of the application for amendment of the Written Statement was a gross abuse of process of law. The application has been rightly rejected by the Appellate Court. No interference is warranted in the impugned order. The Writ Petition is accordingly **rejected**.

NEETA
SHAILESH
SAWANT

[SANDEEP V. MARNE, J.]

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