



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 6093 OF 2025

1. Tanveer Bano Abdul Matin, Aged 71 years, Occ: Household, R/o House no.380/A, Chitra Talkies Chowk, Fakira Garage, Fawwara Chowk, Nagpur-440002.
2. Abdul Amin Abdul Matin, Aged 53 years, Occ: Private, R/o 380/A, Chitra Talkies Road, Bhaldarpura, Bearing Market, Fakira Garage, Nagpur – 440018.
3. Abdul Mobeen Abdul Matin, Aged 50 years, Occ: Private, R/o 380/A, Chitra Talkies Road, Bhaldarpura, Bearing Market, Fakira Garage, Nagpur – 440018.
4. Yasmin Khan Javed Khan @ Yasmin Abdul Matin, Aged 40 years, Occ: Household, R/o 112, Pataleshwar Mandir Road, Near Pataleshwar Mandir, Nagpur-440032.
5. Nasrin Bano Ahmed Shiekh @ Nasrin Bano Abdul Matin, Aged 41 years, Occ: Household, R/o House no.380/A, Chitra Talkies Chowk, Bhaldarpura bearing Market, Fakira Garage, Fawwara Chok, Nagpur – 440002.
6. Shirin Bano Abdul Matin, Aged 43 years, Occ: Household, R/o House no.380/A, Chitra Talkies Chowk, Fakira Garage, Fawwara Chok, Nagpur – 440002.
7. Nazneen Bano Abdul Matin, Aged 40 years, Occ: Household, R/o House no.380/A, Chitra Talkies Chowk, Fakira Garage, Fawwara Chowk, Nagpur – 440002.
8. Parveen Ajj Sheikh @ Parveen Abdul Matin, Aged 49 years, Occ: Household, R/o Civil Lines, Lahanuji Nagar, Ward no.3, Near Head Post Office, Wardha, Maharashtra – 442001.

[Petitioner nos.1 to 8 are the legal representatives of deceased Abdul Matin]

9. Abdul Khalil Haji Abdul Rauf, Aged 63 years, Occ: Private, R/o CA Road, Near Chota Loharpura Masjid, Gandhibagh, Mahatma Fule Bazaar, Nagpur – 440018.
10. Abdul Karim Abdul Rauf, Aged 55 years, Occ: Private, R/o Near Hamis Mistris house, Chota Loharpura, Mahatma Fule Bazaar, Nagpur – 440018.
11. Abdul Kaleem Abdul Rauf, Aged 49 years, Occ: Private, Near Hamis Mistris house, Chota Loharpura, Mahatma Fule Bazaar, Nagpur – 440018.

12. Abeda Begum Jafar Ali @ Abeda Begam Abdul Rauf, Aged 74 years, Occ: Household, R/o C/o Nur Ali, House no.263-E, Killa Road, Near Shahi Masjid, Mahal, Nagpur – 440002.
13. Saida Khanam Afsar Khan @ Saida Khanam Abdul Rauf, Aged 53 years, Occ: Household, R/o 93, Satranjipura Road, Near Mutton Market, Satranjipura, Nagpur – 440018.
14. Famida Begam Shakil Khan @ Famida Begam Abdul Rauf, Aged 54 years, Occ: Household, R/o Plot no.B-13, Sanjay Bag Colony, near Raja Masjid, Raja Chowk, Dr.Ambedkar Marg, Nagpur-440017.
15. Khatija Begum Jakir Ahmed Sheikh @ Khatija Begam Abdul Rauf, Aged 48 years, Occ: Household, R/o House no.531, Dashhara Road, Near Badi Masjid, Bhutiya Darwaja, Mahal, VTC, Nagpur.

[Petitioner nos.9 to 15, the legal representatives of deceased Abdul Rauf]

16. Abdul Gaffar Khan Abdul Sattar Khan, Aged 66 years, Occ: Private, R/o C/o Patel Boot House, House no.380, Panchpaoli Road, Near Chitra Talkies, Mahatma Fule Bazaar, Nagpur-440018.
17. Shahajaha Begum Abdul Sattar, Aged 66 years, Occ: Household, R/o house no.380/BB, Chitra Talkies Chowk, Near Bearing Market, Fawwara Chowk, Mahatma Fule Bazaar, Nagpur-440002.
18. Shahnaz Parveen Iftexhar Sayyed @ Shahnaz Parveen Abdul Sattar, Aged 50 years, Occ: Household, R/o Jamnalal Bajaj Ward, Bhandara, Maharashtra – 441904.
19. Salama Begam Abdul Sattar, Aged 50 years, Occ: Household, R/o Jamnalal Bajaj Ward, Bhandara, Maharashtra – 441904.

[Petitioner nos.16 to 19, the legal representatives of deceased Abdul Sattar Khan]

Petitioner nos.1 to 19, legal representatives of deceased Abdul Matin, deceased Abdul Rauf and deceased Abdul Sattar Khan, through their Power of Attorney Kiran Namdeorao Mahale, Aged 43 years, Occ: Business, R/o Presidency Park, Kh.no.39/1, Near to S.B.I. Manish Nagar, Beltarodi Road, Nagpur – 440037.

PETITIONERS

VERSUS

1. Godrej Properties Limited Company, Through its Authorized Signatory Chirag Akruwala.
2. Godrej Properties Limited Company, Through its Director Pirojsha Godrej.

3. Godrej Properties Limited Company, Through its Director Gaurav Pandey.
4. Godrej Properties Limited Company, Through its Director Nadir Godrej.
5. Godrej Properties Limited Company, Through its Director Sutapa Banerjee.
6. Godrej Properties Limited Company, Through its Director Dr.Indu Bhushan.
7. Godrej Properties Limited Company, Through its Director, Jayashree Vaidyanathan.
8. Godrej Properties Limited Company, Through its Director Sumeet Narang.

Work Addresses of Defendant 1 to 8, Godrej One, 5th Floor, Pirojsha Nagar, Eastern Empress Highway, Vikhroli, Mumbai – 400079.

9. Vimalkumar Pralhadrai Agrawal, Aged 68 years, Occ: Business/Agriculturist.
10. Sarojdevi Vimalkumar Agrawal, Aged 64 years, Occ: Business/Agriculturist.
11. Sandeep Vimalkumar Agrawal, Aged Major, Occ: Business/Agriculturist.
12. Sonalkumar Sandeep Agrawal, Aged Major, Occ: Business/Agriculturist.
13. Divyansh Agrawal, Aged Major, Occ: Business/Agriculturist.
14. Tanisha Agrawal, Aged Major, Occ: Business/Agriculturist.
15. Vishal Vimalkumar Agrawal, Aged Major, Occ: Business/Agriculturist.
16. Deepshikha Vishal Agrawal, Aged Major, Occ: Business/Agriculturist.
17. Manya Vishal Agrawal, Aged Minor, Occ: Business/Agriculturist.
18. Kashyap Vishal Agrawal, Aged Minor, Occ: Business/Agriculturist.

Defendant no.17 & 18, Through their Natural Guardian Vishal Vimalkumar Agrawal.

19. Alok Vimalkumar Agrawal, Aged Major,
Occ: Business/Agriculturist.
20. Priyanka Alok Agrawal, Aged Major,
Occ: Business/Agriculturist.
21. Gautam Alok Agrawal, Aged Minor,
Occ: Business/Agriculturist.
22. Kush Alok Agrawal, Aged Major,
Occ: Business/Agriculturist.
23. Vinita Atulkumar Gupta, Aged Major, Occ:
Business/Agriculturist, R/o 171, Veer Apartments,
Sector 13, Rohini, Delhi – 110055.
24. Shyamadevi Omprakash Agrawal, Aged 68 years,
Occ: Housewife/Agriculturist.
25. Raju Omprakash Agrawal, Aged 48 years,
Occ: Business/Agriculturist.
26. Harsh Omprakash Agrawal, Aged 45 years,
Occ: Business/Agriculturist.
27. Anand Omprakash Agrawal, Aged 43 years,
Occ: Business/Agriculturist.

The Defendant nos.9 to 22 and Defendant nos.24 to 27,
Residing at Plot no.283, Geeta Sadan, Wardhaman
Nagar, Nagpur.

RESPONDENTS

Shri S.K. Mishra, Senior Advocate with Shri K.R. Jhamb and R.S. Sekhsaria,
counsel for the petitioners.

Shri D.V. Chauhan, Senior Advocate with Shri Deoul Pathak, counsel for the
respondent no.1.

Shri H.R. Gadhia, counsel for the respondent nos.9 to 27.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : APRIL 15, 2026

ORAL JUDGMENT

RULE. Rule made returnable forthwith. Heard finally with consent
of the learned counsel for the parties.

2. By this petition, the petitioners take exception to the order dated 10.09.2025 passed by the trial Court in Regular Civil Suit no.750 of 2025, rejecting the application under Order VI Rule 17 of the Code of Civil Procedure, 1908 (for short, 'the Code') for amendment of plaint.

3. The petitioners are the original plaintiffs who have filed a suit for declaration, cancellation of sale-deeds and for the relief of permanent, perpetual and mandatory injunction alongwith the relief of separation of share and separate possession with respect to the suit property. In the suit, the defendants are served and have not yet filed any written statement. The plaintiffs had also filed an application for temporary injunction under Order XXXIX Rules 1 and 2 of the Code, however, even before it is finally decided, the plaintiffs filed an application for amendment of the plaint (at Exhibit 23) thereby seeking to add certain averments about the earlier litigation in between the parties with respect to the suit property. Pertinently, the plaintiffs have earlier filed an application for grant of status quo which was allowed however, subsequently the status quo was vacated. The application for amendment was filed after rejection of an application for extension of *status quo*. Thereafter, by considering the observations recorded by the trial Court while passing the order of rejection of *status quo*, the trial Court has rejected the application for amendment with costs by order dated 10.09.2025. The plaintiffs have challenged this order by way of instant petition.

4. Shri S.K. Mishra, learned Senior Advocate for the petitioners submitted that the application for amendment at Exhibit 23 was filed by

the plaintiffs seeking to add certain averments with respect to the prior litigations in between the parties and the amendment is necessary for deciding the case put forth by the plaintiffs. He also submitted that the defendants have not yet filed their written statement in the suit and in view of the provisions of Order VI Rule 17 of the Code, the application for amendment deserved to be allowed. In support of his submissions, learned Senior Advocate placed reliance on the judgment of the Hon'ble Supreme Court in *Life Insurance Corporation of India Versus Sanjeev Builders Private Limited & Another* [(2022) 16 SCC 1] and by pointing out the concluding paragraphs from this judgment, he submitted that in view of the legal position reiterated in this judgment, the amendment application in this case has to be allowed by particularly considering the fact that the defendants have not filed their written statement in the suit.

5. Per contra, Shri D.V. Chauhan, learned Senior Advocate for the respondent no.1 vehemently opposed the petition and submitted that the application for amendment deserved to be rejected in view of the conduct of the plaintiffs who have suppressed material facts in the plaint. By inviting attention to the observations of the trial Court recorded in the order dated 02.08.2025 rejecting the application for extension of *status quo*, he submitted that since the plaintiffs had obtained the order of *status quo* by suppressing material facts in the plaint, the *status quo* was vacated on that count. He therefore submitted that by the application for amendment the plaintiffs are attempting to place on record the details of earlier litigations in between the parties, which should have been disclosed at the first inception and thus the application for amendment is

an attempt to wash out the adverse observations recorded by the trial Court. In support of his submissions, learned Senior Advocate placed reliance on the judgment of the Delhi High Court in ***Aura Synergy India Ltd. & Another Versus M/s New Age False Ceiling Co. Pvt. Ltd. & Another*** [2018 SCC OnLine Del 9911].

6. While considering the rival contentions, it has to be seen that the application for amendment was filed by the plaintiffs even before the defendants had filed their written statement in the suit. Although the trial Court had earlier passed an order dated 02.08.2025 rejecting the application for extension of *status quo*, the application for amendment of plaint needs to be adjudicated by considering the purport of the provisions of Order VI Rule 17 of the Code. True it is, the plaintiffs were required to disclose all the relevant facts in the plaint, however on account of their failure to disclose the prior litigation in between the parties, the plaintiffs have suffered an order dated 02.08.2025 by which the order of status quo was vacated. The trial Court has observed in the said order that on account of suppression of material facts, the plaintiffs could not claim continuation of the order of *status quo*. As such, the issue of grant of interim relief in the nature of temporary injunction or *status quo* would be independently decided on the basis of several factors including the conduct of the plaintiffs. However, while considering the application for amendment of the plaint, the position of law with respect to the provisions of Order VI Rule 17 of the Code is most relevant.

7. The position of law in this regard is reiterated by the Hon'ble Supreme Court in *Life Insurance Corporation of India* (supra) wherein certain guidelines are laid down with respect to deciding the application for amendment and it is observed that the amendments are required to be allowed for determining the real questions in the controversy provided it is not prejudicial to the other side. It has been observed that this is mandatory as is apparent from the use of the word 'shall' in the later part of Order VI Rule 17 of the Code. Applying the position of law in the instant matter, it has to be noted that the application for amendment is filed at a very early stage of the suit which cannot be prejudicial to the defendants since the defendants are entitled to set up their defence by filing their written statement and lead evidence. As such, the application for amendment, if allowed, cannot amount to cause any prejudice to the rights of the defendants.

8. As regards the judgment of the Delhi High Court in *Aura S ynergy India Ltd. & Another* (supra), it has to be noted that the amendment application in that case was rejected since it was found that the defence of the defendant was likely to be robbed and pertinently this judgment does not deal with a situation when the application for amendment is filed even before the defendants had filed their written statement. As such, the judgment in *Aura Synergy India Ltd. & Another* (supra) is not of any assistance to the respondents.

9. A perusal of the order passed by the trial Court reveals that the Court has observed that the application for amendment is an attempt to wash out the observations relating to suppression of material facts. The trial Court has although referred to the general principles of law that every amendment should be allowed but has rejected the application for amendment by adopting pedantic approach, without considering the fact that the trial in the suit has not yet commenced.

10. On giving anxious consideration to the entire controversy, I am of the considered view that the impugned order does not stand to the scrutiny of law and it deserves to be quashed and set aside. Hence, the following order is passed:-

- I. The writ petition is allowed.
- II. The order passed by the trial Court on 10.09.2025 below Exhibit 23 in Regular Civil Suit no.750 of 2025 is quashed and set aside. The application for amendment filed by the plaintiffs at Exhibit 23 is allowed.

11. Rule is made absolute in aforesaid terms with no order as to costs.

(PRAFULLA S. KHUBALKAR, J.)