

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

924 WRIT PETITION NO. 9195 OF 2016

SHRI ANIL MADHUKAR MANDLIK
VERSUS
SHAIK LAL JAINUDDIN DEAD LRS

Shri. N.B. Patekar, Advocate, holding for Shri. P.R.
Katneshwarkar, Advocate, for petitioner.

CORAM: T.V. NALAWADE, J.

DATE : 27 SEPTEMBER 2016

ORDER:

1) The petition is filed to challenge the order made on Exhibit 60 in Regular Civil Suit No.174/1996 which is pending in the Court of the Civil Judge, Junior Division, Akole. Initially, the suit was filed for relief of fixing the boundary marks of land of plaintiff and he also wanted to get the relief like damages, compensation in respect of his land which was cultivated by the defendants. Heard learned counsel for the petitioner.

2) The submissions made and the record show that in the suit Court Commissioner was appointed and

after taking measurement, the Taluka Inspector of Land Record has given report that the defendant has made encroachment over 18 R portion of the land belonging to the plaintiff. After receipt of this report, amendment application at Exhibit 60 came to be made and the plaintiff has now paid for relief of possession of 18 R portion. This amendment is allowed by the trial court after hearing both the sides.

3) This Court has carefully gone through the written statement filed by the present petitioner in the suit. He has denied everything including the allegations that he had made encroachment. In view of these circumstances and the aforesaid report submitted by the T.I.L.R., this Court holds that the trial court has not committed any error in allowing the amendment in the plaint. Nature of the suit is not changed.

4) Learned counsel for the petitioner placed reliance on two cases of the Supreme Court reported as MANU/SC/7703/2008 (**Rajkumar Gurawara v. S.K. Sarwagi**) and MANU/SC/0392/2013 (**Mashyak Grihnirman**

Sahakari Sanstha Maryadit v. Usman Habib Dhuka).

Learned counsel submitted that the amendments were sought at belated stage and so the trial Court ought to have rejected the application. This submission is not at all acceptable. In view of aforesaid relevant facts, the observations made in the reported cases are not of any help to the present petitioner. In the result, the petition stands dismissed.

Sd/-
(T.V. NALAWADE, J.)

rs1