

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

WRIT PETITION NO.10174 OF 2014

SANJAY KISANRAO SAVARIKAR
VERSUS
ANIL TULSHIRAM KARAD AND OTHERS

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Advocate for the Petitioner : Shri H.B.Nandagavale h/f Shri Shri
V.G.Sakolkar.
Advocate for Respondents 1 and 4 : Shri Vishal V. Udhan h/f Shri
B.R.Kedar.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 16th April, 2019

Per Court:

1 I have considered the submissions of the learned Advocates for the respective sides and have gone through the petition paper book with their assistance.

2 The Respondents/ plaintiffs had filed application Exhibit 53 seeking an amendment to the plaint in RCS No.809/2012. By the impugned order dated 25.02.2014, Exhibit 53 was allowed subject to costs and the proposed amendment was permitted. The court fees were also directed as the relief of mandatory injunction was introduced. The impugned order has been passed on 25.02.2014. This Court has not granted any relief to the Petitioner and this petition is pending for the last

five years.

3 It appears from the record that the Plaintiffs moved the amendment application so as to introduce the relief of mandatory injunction since an illegal construction was made on the western side of the suit shop during the pendency of the suit. On account of the illegal construction, the Plaintiffs desired to introduce the relief of demolishing the said illegal construction. In this backdrop, the Trial Court has allowed Exhibit 53.

4 The Respondents/ Plaintiffs has filed the affidavit in reply dated 06.02.2019. It is contended that the additional prayer introduced through the amendment was to avoid multiplicity of the litigation. The prayer put forth was not barred by the law of limitation.

5 In view of the above, I do not find that the impugned order could be termed as being perverse or erroneous. This Writ Petition, being devoid of merit, is, therefore, dismissed.

kps

(RAVINDRA V. GHUGE, J.)