

DDR

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 8402 OF 2019

M/s. B.G. Shirke Construction
Techonology Pvt. Ltd.

..Petitioner

vs.

Bhagwan Dnyanu Thorat & ors.

..Respondents.

....

Shri Vilas B. Tapkir for petitioner.

....

CORAM : M.S.KARNIK, J.

DATE : 2nd AUGUST, 2019

P.C. :

This matter pertains to the assignment of the Hon'ble
Shri Justice S.K. Shinde.

2. The order under challenge is passed below Exhibit
264 allowing the plaintiff to amend the Plaint and for adding of
prayer for possession. The suit was for recovery of amount and
mandatory injunction. The trial Court allowed the application.

3. Learned Counsel for the petitioner contended that
the arguments in the suit are already over and at this stage the

trial Court should not have allowed the application for amendment. He would moreover submit that though the plaintiff had ample opportunity to seek relief for possession by amending the Plaint, he has done so at a very last moment. Learned counsel would further submit that it is the case of the defendant that the possession was already handed over and in view of the prayer now made pursuant to the amendment, the plaintiff would seek relief for the damages by contending that the possession has not been handed over. One more contention of learned counsel is that the claim for possession is time barred and beyond limitation.

4. The trial Court has allowed the application (Exhibit 264) for the reasons mentioned in the order. At the advanced stage at which the suit is, I am not inclined to interfere with the order as the order passed by the trial Court can always be challenged in Appeal after the suit is finally decided.

5. In this view of the matter, I see no reason to interfere with the order passed by the trial Court more so when the matter is fixed for final arguments.

6. Subject to the above observations, the Petition is disposed of.

(M.S.KARNIK, J.)