

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

WRIT PETITION NO.6352 OF 2019

Shri. Shashikant Anant Kapse
V/s.
Deputy Director of Education,
Kolhapur Division and Ors.

....Petitioner

....Respondents

Mr. Manoja Pagonda Patil for the Petitioner.
Mr. P.V. Nelson Rajan, AGP for the Respondent Nos.1 and 4.

CORAM : NITIN W. SAMBRE, J.

DATE : MARCH 23, 2022.

P.C.:-

1] In a suit for declaration, prayer of the Petitioner/Plaintiff for amendment is rejected on the ground that trial in the suit has commenced. I am informed by the Counsel for the Petitioner/Plaintiff that Plaintiff is under cross-examination.

2] Learned AGP appearing on behalf of Respondent Nos. 1 and 4 opposed the prayer, as according to him, trial in the suit has already commenced. Though served, none appears for contesting Respondent/Defendant. As such, contentions in the Petition are not controverted. Petitioner has already deposited costs of Rs 10,000/- with the court below.

3] In that view of the matter, since trial in the suit has not advanced considerably and since the foundation is already noticed in the existing pleadings in support of the amendment sought, in my opinion, amendment needs to be granted. As such, order impugned dated 20/7/2018 passed below Application-Exhibit-54 is quashed and set aside. Application-Exhibit-54 stands allowed. Amendment be carried out within four weeks from today. Court below shall be at liberty to pass the order of apportionment of costs.

4] Petition is disposed of in the above terms.

(NITIN W. SAMBRE, J.)