



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

24 WRIT PETITION NO. 5474 OF 2023

ANIRUDDH RAMBHAU TIDKE
VERSUS
COLLECTOR BEED AND OTHERS

.....
Advocate for the Petitioner : Mr. Bhavthankar Vivek Vasantrao
AGP for the Respondents/State : Mr. B.A. Shinde
Advocate for the R/3 & 4 : Mr. B.R. Sontakke
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CORAM : Y.G. KHOBRAGADE, J.
DATE : 18.09.2024

PC.:-

1. Heard advocate Mr. Bhavthankar the learned counsel appearing for the Petitioner, Mr. Sontakke appearing for the Respondent Nos.3 & 4 and the learned AGP for the Respondent Nos.1 and 2. None present for Respondent Nos.5, 6 & 7.

2. Having regard to the strenuous submissions canvassed on behalf of both the sides, I have gone through the record. By the present the Petitioner is challenging the order dated 23.01.2023 passed below Exh.101 in RCS No.103/2017, whereby the learned Trial Court has declined to grant application for amendment to the suit. It is not in dispute that present Respondent Nos.3 and 4 who are daughter and wife of the Petitioner had

lodged RCS No.343/1997 for partition and possession. The present Petitioner was the Defendant in the said suit. The said suit was decreed and said decree was confirmed up to the second appeal.

3. The Petitioner alleged that the present Respondent Nos.3 and 4 in collusion with the revenue officers got mutated their names illegally in the revenue record on the basis of decree passed in RCS No.343/1997. Therefore, the Petitioner had filed MCA No.39/2012 under Section 151 and 152 of the C.P.C. for correction of decree, however, the said application was rejected. Thereafter, the present Petitioner filed RCS No.103/2017 before the C.J.S.D., Majalgaon and prayed for decree of perpetual injunction restraining the Respondent Nos.1 and 2 from measurement of land in pursuance of decree passed in RCS No.343/1997.

4. During the pendency of the said suit the present Petitioner/Plaintiff filed an application Exh.101 and prayed for permission to amend the pleadings alleging the Respondent Nos.3 and 4 are in collusion with the revenue officers and they have measured the land and manufactured bogus documents i.e. measurement map, panchanama as well as mutation entries.

5. On 23.01.2023, the learned Trial Court passed the impugned

order holding that the proposed amendment is based on subsequent documents to the decree passed in RCS No.343/1997 and the mutation entry already affected on 04.10.2018 vide entry no.762 and said entry was approved on 23.01.2018. So also, the Petitioner has filed the application for amendment belatedly after lapse of five years.

6. On perusal of the impugned order, it appears that the Petitioner has not given any cogent reasons explaining the delay as to why he did not ask for corrections prior to 10.11.2022. Therefore, I do not find that the findings recorded by the trial Court are perverse and no interference is called at the hands of this Court.

7. In view of the above discussion, the present petition is dismissed.

[Y.G. KHOBRADE, J.]