

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5993 OF 2014**

Rajbahadur Amarnath Rajbhar

..Petitioner

Vs.

Premnarayan Maharajbux Pandey & Anr.

..Respondents

Mr. P. D. Paranjape for the Petitioner

Mr. V. T. Dubey for the Respondent No.1

Mrs. V. S.Nimbalkar AGP for the Respondent No.2

CORAM : R. M. SAVANT, J.

DATE : 10th June, 2015

P.C.

1 The Writ Jurisdiction of this Court is invoked against the order dated 2-5-2014, passed by the Learned President of the Maharashtra Slum Tribunal, by which order, the application being Misc Application No.47 of 2013 for amendment of the operative part of the order dated 6-12-2002 passed in Appeal No.26 of 2002, came to be allowed in the matter of amending the description of the property mentioned therein and the said operative part accordingly came to be modified to the extent mentioned in clause (I) of the operative part of the impugned order.

2 The subject matter of the Appeal being Appeal No.26 of 2002, was the Notification issued under Section 4 of the Slum Act dated 31-8-1977. In the context of the present Petition, it is required to be noted that in the said Notification the properties bearing Nos.650/1 to 650/29 with the areas

mentioned against their names find a place. However, whilst allowing the Appeal, the Notification dated 31-8-1977 came to be quashed qua the property mentioned in the operative part of the order which description reads thus :

“The impugned slum area declaration vide Notification No.ENC/DCK-3/Sr.4 dated 31.8.1977 published in the Maharashtra Government Gazette dated 15.9.1977 is quashed and set aside so far as it relates to the appellant's property involved in this Appeal i.e. the area admeasuring 293.7 sq.mts. Comprised in CTS No.650, Survey No.185, Hissa No.2, 4 and 20 (apart) of Village Kurla, Bombay Suburban District, situated at Hall Village Road, Kurla (W), Mumbai 400 070”.

3 Hence though the property was not described as per the structure Nos.650/1 to 650/29, the area mentioned in the said operative part was 293.7 sq.mts. which is total area of the said structures together. In view of the fact that the description of the property created difficulties for him in view of the wrong description in the operative part of the judgment by the Slum Tribunal, the Respondent No.1 filed an application for modification of the judgment and order by amendment of the operative clause of the order passed in the Appeal, so as to correct the description of the property as structures being 650/1 to 650/29. The said application filed by the Respondent No.1 has been allowed by the Slum Tribunal by the impugned order dated 2-5-2014. The Learned President of the Slum Tribunal has referred to the judicial pronouncements of this Court as well as the Apex Court concerning Section 151, 152 and 153 of the Civil Procedure Code which confer powers on the court for carrying out

corrections in the judgment. The Slum Tribunal held that since in the absence of any provision in the regulation, the Civil Procedure Code applies to the conduct of the proceedings in the Tribunal, the Tribunal was within its powers to correct the mistakes which have occurred by exercising powers under Section 152 of the Civil Procedure Code. The Tribunal was of the view that in the instant case, the matter relates to accidental slip or omission to narrate complete description of the property involved in the Appeal.

4 It is required to be noted that in the application for condonation of delay in filing the Appeal, the Respondent No.1 has referred to the structures in question being No.650/1 to 650/29 of Village Kurla as also in the Appeal Memo which was filed challenging the said Notification dated 31-8-1977. Hence non mentioning of the said properties or structures being No.650/1 to 650/29 in the judgment and order passed in the Appeal, was an inadvertent mistake committed by the Tribunal which it was entitled to correct in the interest of justice.

5 In my view, the impugned order passed by the Tribunal having regard to the well settled principles applicable to Sections 152 and 153 of the Civil Procedure Code, cannot be taken exception to. No case for interference is therefore made out. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]