

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11014 OF 2017

ALLABAKSH KADARBHAI SHAIKH AND ANOTHER
VERSUS
MOHAN LUTHAR THORAT AND OTHERS

...
Advocate for Petitioners : Shri Bhandari Anand P.

...
CORAM : RAVINDRA V. GHUGE, J.
Dated: September 11, 2017

...

PER COURT :-

1. The petitioners are aggrieved by the order dated 18.7.2017, by which, application Exhibit 45, filed by the petitioners / plaintiffs, has been rejected.

2. Grievance is that as the plaintiff was being cross-examined by the Advocate for one of the defendants, to an answer as to whether he had the knowledge of the suit land being declared a free hold land in 2009, he had answered by saying that the said suggestion is wrong. In Marathi, he has answered as saying, "हे म्हणने बरोबर नाही." However, it was recorded in the affirmative that the said witness has said "हे म्हणने बरोबर आहे." By seeking a correction to said typographical

error, Exhibit 45 was filed and which was rejected by the impugned order.

3. Shri Bhandari, learned Advocate has made a strenuous effort to contend that this correction needs to be done and the version of the petitioner needs to be accepted as the said answer is against the pleadings in the plaint.

4. The trial Court has recorded that what has been typed in the cross-examination, is the correct version.

5. In peculiar facts and circumstances as like the case in hand, it would be quite difficult for this Court exercising supervisory jurisdiction to conclude that the trial Court has committed an error in passing the impugned order. The only option available to the plaintiffs could be to address the trial Court at the final stage and make an attempt to indicate that the said answer is out of inadvertence and it goes against the pleadings and the documentary evidence recorded before the trial Court. Shri Bhandari submits that he would canvass this issue by taking recourse to Section 105 of the Code of Civil Procedure.

6. Considering the above, this petition being devoid of merits is, dismissed.

(RAVINDRA V. GHUGE, J.)

...

akl/d