

Mr. Ajay A. Joshi for Petitioners.  
Mr. Sham Walve for Respondent.

P.C. :

Heard Mr. Joshi, learned Counsel for petitioners and Mr. Walve, learned Counsel for respondent at length. Rule. Mr. Walve waives service for respondent. Having regard to the narrow controversy raised in this Petition as also at the request and by consent of the parties, Rule is made returnable forthwith and the Petition is taken up for final hearing.

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3. In support of this Petition, Mr. Joshi invited my attention to the description of the suit property given in paragraph 1-B of the plaint in Regular Civil Suit No.61 of 2002 and the decree drawn in pursuance of the order dated 06.01.2007. He submitted that there is a discrepancy in relation to the eastern boundary of the suit property described in paragraphs 1-A and 1-B of the plaint. In paragraphs 1-A and 1-B of the plaint, it is mentioned that Gat No.1271 is situate on the eastern side. As against this, in decree, it is mentioned as “eastern side Gat No.1272”. He submitted that unless and until decree is rectified, the Courts below were not justified in passing the impugned orders.

4. Mr. Walve submitted that even in the agreement of sale dated 02.04.1982, eastern boundary of property in paragraphs 1-A and 1-B is mentioned as Gat No.1271. Even in the Suit, the same Gat Number is mentioned. However, while drawing the decree, eastern boundary in paragraphs 1-A and 1-B of the Suit is mentioned as 'Gat No.1272'. He submits that within two weeks from today, respondent-decree holder will file application for correcting the clerical / arithmetical mistakes in the decree.

5. As it is not in dispute that there is mistake in drawing the decree, on the basis of the decree as it stands today, Courts were not justified in passing the impugned orders. Hence, impugned orders are set aside reserving liberty to the decree-holder to file application under Section 152 of the Code of Civil Procedure, 1908 for correcting the decree. Upon the outcome of the said proceedings, liberty is reserved to the decree-holder to approach the trial Court for approving the sale deed. Rule is made absolute accordingly with no order as to costs.

**(R. G. KETKAR, J.)**