

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO. 2953 OF 2018

BANKATLAL BIHARILAL RATHI  
VERSUS  
SAYYED MUNAF AHMED AND ANOTHER

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Advocate for Petitioner : Shri Bora Satyajit S.

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CORAM : RAVINDRA V. GHUGE, J.  
Dated: March 23, 2018

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PER COURT :-

1. The petitioner is aggrieved by the order dated 5.7.2016 passed by the executing Court in Special Darkhast No.39 of 2014, by which, the objections of the petitioner / judgment debtor raised vide application Exhibit 29 to the draft sale deed, has been rejected. The petitioner is also aggrieved by the judgment and order dated 6.1.2018, delivered by the appellate Court by which, Misc. Civil Appeal No.96 of 2016 has been rejected.

2. I have considered the strenuous submissions of the petitioner. He has taken me through Order XXI Rule 34 as well as form 10 in Appendix 'E' to the Code of Civil Procedure (CPC).

Contention is that there are several grammatical mistakes in the draft of the sale deed, which is to be executed through the executing Court and the notice in form 10 does not state the description of the property.

3. It requires no debate that the property has been described in the plaint and has also been described in the draft of the sale deed tendered by the decree holders, by which, the executing Court would get the sale deed executed. Even otherwise, the judgment debtor has the complete knowledge of the description of the property since he has received the draft of the sale deed. As such, it would be unfair to stall the execution proceedings on account of technicalities, since the said property has been properly described in the draft of the sale deed, which the petitioner has received along with the notice under Order XXI Rule 34 of the CPC.

4. In so far as the mistakes appearing in the sale deed are concerned, it is pointed out by way of an illustration that in Clause 3 of the draft sale deed, that, though 'Lihun Ghenar' would be the decree holder and 'Lihun Denar' would be the judgment debtor, it appears in line No.8 of Clause 3 of the said draft that the position of the decree holder and the judgment

debtor have been erroneously interchanged. Learned counsel, therefore, submits that this would create further complications.

5. Considering the above, I find that the ends of justice would be met by bringing it to the notice of the executing Court that it should give a close look to the draft sale deed and if any corrections are required in the interest of justice and to avoid further complications, it may direct the decree holder to correct the draft accordingly.

6. With the above observations, which the executing Court would consider before passing the final order for execution of the sale deed, this petition is disposed off.

( RAVINDRA V. GHUGE, J. )

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akl/d