

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.787 OF 2018
(Bapu Laxman Modhave (deceased), through LR's Vs. Laxman Vishnu
Palshikar)

Mr.D.G.Nagode, Advocate for the petitioners.
Mr.Shaikh Mazhar A. Jahagirdar h/f Mr.P.V.Barde, Advocate for the
respondent.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 22/01/2018

PER COURT :

1. The petitioners / judgment debtors are aggrieved by the order dated 30/10/2017 by which the Executing Court has allowed application Exh.36 filed by the decree holder and has permitted him to mention the correct side of the suit property.

2. Grievance of the petitioners is that the Executing Court could not have permitted the decree holder to amend the decree.

3. I have considered the submissions of the learned Advocates for the respective sides.

4. There is no dispute that there were two regular civil suits filed by the plaintiff with regard to the eastern and the western side of the

suit building known as "Gangabaicha wada". One suit dealing with the eastern side was earlier decreed and the plaintiff has taken the possession of the said portion of the building on the eastern side after execution. On account of copy-paste while preferring Special Civil Suit No.95/2010, erroneously the same eastern side of the building has been quoted in the plaint.

5. The judgment debtors have opposed the said suit understanding it to be a suit for taking possession of the western side of the building. Even in the judgment of the Trial Court dated 16/03/2011, it has been consistently mentioned as the western side. The judgment of the Appellate Court dated 21/03/2014 also mentions that the 25 *khans* (खण) of the western side portion of the building is the suit property. Owing to the typographical error committed by the plaintiff, the decree contains a word "in eastern side". By the impugned order, the Executing Court has permitted the correction in the said decree.

6. Considering the above, I find that a typographical error has been permitted to be corrected. This petition, being devoid of merit, is therefore, dismissed.

(RAVINDRA V. GHUGE, J.)