

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11392 OF 2015

Balasaheb Appajirao Jadhav

..... Petitioner

VERSUS

Kakasaheb Ramchandra Jadhav & Ors.

..... Respondents

Mr.Rahul Kate for the Petitioner.

Mr.Y.Lingrare, i/b. Mr.Ashish P.Pawar for the Respondent nos. 1, 8C and 9.

CORAM : R.D. DHANUKA, J.

DATE : 20th AUGUST, 2018

P.C.

Heard learned counsel appearing for the parties. The application filed for amendment in the Civil Suit No. 233 of 1998 for correcting the description of the suit property came to be rejected.

2. Learned counsel appearing for the respondent nos. 1, 8C and 9 has no objection if the impugned order is set aside and the amendment application filed by the petitioner before the learned trial court (Ex.1) is allowed. Rest of the respondents are absent though served.

3. It is not in dispute that the consent decree was passed by the learned trial court in favour of the petitioner and all parties to the suit. However, in the said consent decree there was mis-description of the property and in the area of the suit property. The petitioner (original claimant) thus made an application under section 152 read with

sections 151 and 153 of the Code of Civil Procedure, 1908 for making corrections and more particularly description in paragraphs 2, 3 and 4 of the said application dated 10th January, 2006.

4. In my view, the learned trial judge ought to have permitted the petitioner to carry out the amendment which was necessitated in view of the mis-description of the area of the description of the property.

5. I, therefore, pass the following order :-

(a) Impugned order dated 21st December, 2013 passed by the learned 2nd Joint Civil Judge, Senior Division, Sangli is set aside.

(b) The application (Ex.1) filed by the petitioner for amendment is allowed.

6. Writ petition is disposed of in the aforesaid terms. No order as to costs.

[R.D. DHANUKA, J.]