# IN THE HIGH COURT OF JUDICATURE AT BOMBAY
# BENCH AT AURANGABAD

WRIT PETITION NO.9813 OF 2018

CHANDRASHEKAR MAROTIRAO SONWANE
VERSUS
SUNITA ASHOK VAIJWADE AND ANOTHER
...
Advocate for the Petitioner : Shri Bilolikar Upendra B.
Advocate for Respondent 2 : Shri Borulkar Avinash R.
...

**CORAM: RAVINDRA V. GHUGE, J.**

**DATE :- 16th April, 2019**

**Per Court:**

1 While issuing notice on 28.08.2018, I had passed the following order :-

> "*1. The petitioner/ original plaintiff in RCS No.219/2010 is aggrieved by the impugned order dated 27.06.2018 by which his application Exh.151 seeking a minor correction in the description of the suit property boundaries, has been rejected by the impugned order dated 27.06.2018 on the ground that the amendment sought in the nature of a typographical error, is inconsistent with the pleadings of the plaintiff.*
> *2. Issue notice to the respondents, returnable on 05.10.2018. Until the returnable date in this matter, the Trial Court shall adjourn the said suit.*"

2 Shri Borulkar, learned Advocate for Respondent No.2, has strenuously opposed this petition. He submits that RCS No.219/2010 is

practically at the penultimate stage. The final arguments are to be advanced and the matter, thereafter, would be reserved for judgment. It is at this stage that the application Exhibit 151 was filed and the Trial Court has rightly rejected the said application. He prays that this petition be dismissed with heavy costs as the proceedings before the Trial Court have been truncated on account of the pendency of this petition for about 08 months.

3 I have considered the strenuous submissions of the learned Advocates and have gone through the petition paper book with their assistance. Respondent No.1, though served with the court notice, has chosen not to enter an appearance.

4 I find from the record that a peculiar typographical error has occurred in the claim clause of the plaint. The learned Advocate for the Petitioner/ Plaintiff concedes that the prayer clause in the plaint is correctly typed. For the sake of clarity, I deem it appropriate to reproduce the description of the property in the claim clause, verbatim, herein below :-

> *"East :- S.No.42*
> *West :- Nanded Malegaon road.*
> *North :- 8 meter wide road and plot No.2-A, plot adm. 27.5 meters towards west, 22 meters towards East, 23 meters towards North and 21.5 meters towards North.*
> *South :- Gut No.118."*

5 The typographical error that appears in the claim clause is that on the north side, there is an 8 meters wide road and plot No.2-A. Rest of the portion appearing in the claim clause in connection with the north side, should have been typed in front of Gat No.118 i.e. opposite the south side. Similarly, the "north" side appears at two places in the said portion and therefore, the last portion, which is 21.5 meters, should read as 21.5 meters towards south. For the sake of clarity, the correct description will now be as under :-

| | |
|---|---|
| "*East :-* | *S.No.42* |
| *West :-* | *Nanded Malegaon road.* |
| *North :-* | *8 meter wide road and plot No.2-A.* |
| *South :-* | *Gut No.118.* ***plot Adm. 27.5 meters towards west, 22 meters towards East, 23 meters towards North and 21.5 meters towards South.*** " |

6 Considering the above, I am of the view that it is purely an erroneous description of Gat No.118 having a plot with it's dimensions, typed in connection with the north side description. There is neither any change in the dimensions of the plot, nor would it appear that the Plaintiff is changing the description of the suit property.

7 In view of the above, this Writ Petition is allowed. The impugned order dated 27.06.2018 is quashed and set aside. The application Exhibit 151 is allowed and the Plaintiff is permitted to correct the description of the north and south sides of the suit property as noted

above below paragraph 5, on or before 25.04.2019 and the amended copy of the plaint will also be tendered on the same date. The Plaintiff shall deposit an amount of Rs.5000/- (Rupees Five Thousand) towards costs before the Trial Court on or before 25.04.2019 and Respondent No.2 (Suresh Kshirsagar) is permitted to withdraw the said amount unconditionally.

8 Since the suit is of the year 2010, subject to the convenience of the Trial Court, the litigating sides would be at liberty to advance their oral submissions on or before 30.04.2019 and the Trial Court would be at liberty to decide the suit on or before 30.06.2019.

*kps* (**RAVINDRA V. GHUGE, J.**)