

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

937 CIVIL APPLICATION NO.7733/2014
IN SECOND APPEAL NO.427/2009
(DECIDED ON 13.8.2013)

SHAIKH IRSHAD SHAIKH MUKHID
VERSUS
SHAIKH MUSTAPHA SHAIKH MUKHID AND OTHERS

Advocate for Applicant : Shri Nagarkar Avinash M.
Advocate for Respondent nos.3 to 5 : Shri F.V. Patel
Respondent no.6 dead.

CORAM: V.L. ACHLIYA, J.

DATE: 30.08.2019

PER COURT :

1] Heard learned counsel for applicant and respondent nos.3 to 5.

2] This application is filed seeking correction in the name of respondent no.6 and to bring the L.Rs. of deceased respondent no.6 on record. It is submitted that in the judgment and decree passed by first appellate Court, the typographic mistake was committed in recording the name of respondent no.6. The mistake so committed continued till decision in second appeal. Although the application was filed for bringing the L.Rs. of respondent no.6, but the same remained to be decided till decision in appeal.

3] From the record, it appears that the second appeal was heard and decided by this Court vide judgment and order dated 13.8.2013. Subsequent thereto, the

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application for review of judgment and order was filed, which came to be decided vide order dated 7.4.2014. Since the appeal filed by applicant was decided on 13.8.2013, the application for bringing L.Rs. of respondent no.6 cannot be entertained in disposed of matter. So far as mistake committed in the name of respondent no.6 is concerned, the same is claimed to have occurred in the judgment and decree passed by the first appellate Court and not by this Court, the request for correction cannot be entertained by this Court. I am, therefore, not inclined to entertain both the applications.

4] Accordingly, the Civil Application No.7733/2014 is rejected. However, rejection of this application will not come in the way of applicant to move appropriate application before appropriate Court.

(V.L. ACHLIYA, J.)