

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1020 WRIT PETITION NO.12579 OF 2017

JALAL AZIMODDIN PATEL
VERSUS
BASHIR AZIMODDIN PATEL AND OTHERS

.....
Advocate for Petitioner : Mr. Karpe Rahul R.
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CORAM : V. K. JADHAV, J.
DATED : 17th JANUARY, 2020

PER COURT:-

1. Learned counsel for the petitioner places reliance on the judgment of Supreme Court in the case of ***Niyamat Ali Molla vs. Sonargon Housing Co-operative Society Ltd. and others, reported in AIR 2008 SC 225*** wherein in para 19, the Supreme court has made the following observations:-

“19. Code of Civil Procedure recognises the inherent power of the court. It is not only confined to the amendment of the judgment or decree as envisaged under Section 152 of the Code but also inherent power in general. The Courts also have duty to see that the records are true and present the correct state of affair. There cannot, however, be any doubt whatsoever that the Court cannot exercise the said jurisdiction so as to review its judgment. It cannot also exercise its jurisdiction when no mistake or slip occurred in the decree or order. This provision, in our opinion, should, however, not be construed in a pedantic manner. A decree may, therefore, be corrected by the court both

in exercise of its power under Section 152 as also under Section 151 of the Code of the Civil Procedure. Such a power of the Court is well recognized."

2. On perusal of the impugned order, it appears that the learned Judge of the trial court who has passed the judgment and decree has not applied his mind to the correction sought by the petitioner in the judgment and decree. The respondent herein though duly served none appears for them. In view of the same, I deem it appropriate to quash and set aside the order impugned in this writ petition by remanding the matter to the trial court to decide it afresh in the light of the ratio laid down by the Supreme Court in the case reported in **AIR 2008 SC 225 (supra)**. Order accordingly.

3. Writ petition is disposed of.

(V. K. JADHAV, J.)

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