

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7339 OF 2018**

Shri Ashok Shankar Nikam and Ors Petitioners.
Vs.
Shri Shivaji Krishna Patil (Nikam)
and Ors. Respondents.

Ms. Anjali R. Shiledkar Baxi for the Petitioners.

CORAM: NITIN W. SAMBRE, J.

DATE: FEBRUARY 16, 2021

P.C.:-

1] Heard.

2] Petition is by a decree holder questioning the order impugned passed below Exhibit-59 in Final Decree Proceedings No.1 of 2007 whereby prayer of the Petitioner for carrying out certain corrections in the decree came to be rejected. Admittedly, decree for partition is passed by the Court of Civil Judge, Senior Division and execution proceedings thereof are pending before the Civil Judge, Junior Division, Sangli. Petitioner has sought corrections in the decree in exercise of powers under Section 152 of CPC. As far as corrections which are sought in the decree are concerned, there is no error on the

part of the Court in drawing decree or also in the judgment while recording description of the property, as the property was correctly described, as has been mentioned in the plaint. What Petitioner wants is, location of the property mentioned in the plaint be corrected to be situated adjoining Sangli Village or within the limitation of Sangli District. Such correction is required to be carried out in the decree by the appropriate court who has passed the decree and not by the executing court as correction in the decree has to be preceded with application thereby seeking correction in the plaint also.

3] In the aforesaid backdrop, executing court rightly directed the Petitioner to move the court which has passed the decree, for correction.

4] The scope of Section 152 of CPC cannot bring in its ambit the correction as is sought to be carried out in the decree based on incorrect narration of property in the plaint. As such, Petitioner is at liberty to approach the Court which has passed the decree for appropriate correction. While dealing with such prayer, the Court which has passed the decree shall be sensitive to the fact that there is

already an adjudication on merit and no substantial change in the schedule is sought but for minor correction.

5] With the above observations Petition stands dismissed.

(NITIN W. SAMBRE, J.)