

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

936 WRIT PETITION NO.11552 OF 2022

SOPAN BHIKAJI GAJE DIED THROUGH LRS THAKUBAI SOPAN GAJE
VERSUS
BABASAHEB UTTAMRAO DESHMUKH AND OTHERS

...
Advocate for Petitioner : Mr S.K. Shinde

CORAM : SANDEEP V. MARNE, J.

DATE : 22nd NOVEMBER, 2022

PER COURT :

1. This writ petition is filed challenging the order dated 05.09.2022 passed by the Civil Judge, Junior Division, Akole, Dist. Ahmednagar in Misc. Civil Application No.1/2022 below Exh.80. By that order, the executing court has permitted amendment of the decree to the extent of replacement of village Akole in place of village Washere. The trial court has compared the gut number and area of the suit property and arrived at finding that the error occurred due to sheer inadvertence and the same is account of typographical error. The suit property is actually situated at village Washere, but while drafting the prayer, village Akole is inadvertently typed while describing the suit property. The executing court has recorded a finding that if an error is not corrected, the decree can never be executed. In order to enable the decree holder to enjoy the fruits of the decree, the proposed correction has been permitted.

2. Petitioners before me are the legal heirs of original defentent No. 9, who had executed compromise with the plaintiff, on account of which the suit was decreed. Now, it appears that the legal heirs of the

deceased defendant No. 9 want to take disadvantage of the typographical error with a view to frustrate the decree. This in my opinion, could not be permitted.

3. The court below has relied upon the judgment in ***Vasant Laxman Deshmukh Vs. Sakharam Limbaji Jadhav reported in (1982) 84 BOMLR 369***, wherein this court has referred to the powers of the Civil Court under section 152 of the Code of Civil Procedure to correct mistakes of the parties in the pleadings.

4. In my view, by allowing the application, the court below has merely enabled the decree holder to enjoy the fruits of the decree and prevented frustration of the same on account of typographical error. There is no error in the order passed by the court below.

5. The petition is devoid of merits and the same is dismissed with no order as to costs.

[SANDEEP V. MARNE, J.]

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