

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3404 OF 2023

Tukaram Duklya and others

... Petitioners

Versus

State of Maharashtra

... Respondent

— —
Kaustubh Patil with Mr. Roshan Sawant for the Petitioners.
Mr. C.D. Mali, AGP for the Respondent-State.
— —

CORAM : SHARMILA U. DESHMUKH, J.

DATE : June 28, 2023.

P. C. :

1. Heard.

2. The application for amendment for the purpose of correcting the name of the Petitioner no.3 came to be rejected by the impugned order dated 13th January, 2023, in the Land Acquisition Reference No.2 of 2016. The present Petitioner no.3 was the Applicant no.3, however, there was an error in the cause title as the Applicant's married name was "Chhaya Bhalchandra Patil" and instead of the same, the name in the cause title was typed as "Savitribai Bhalchandra Patil". Noticing this error, an application came to be moved being Misc. Civil Application No.135 of 2022

seeking to correct the name from 'Savitribai Bhalchandra Patil' to 'Chhaya Bhalchandra Patil'. It is stated in the said application that inadvertently there was an typographical error in the name of the petitioner.

3. By the impugned order, the application came to be rejected on the ground that the Executing Court has not power to permit the amendment of the application. Learned counsel appearing for the Petitioner submits that the application in question was moved in the original Land Acquisition Reference No.2 of 2016.

4. Pursuant to the order of this Court dated 3rd May, 2023, a report was called from the Respondent-State as regards the verification of the name of the Petitioner No.3. The copy of the report is tendered by the AGP and same is taken on record. Learned AGP submits that the Petitioner No.3's maides name was Savitribai Duklya Tandel and after her marriage, her name become Chhaya Bhalchandra Patil and both are one and the same person. It is nobody's case that the Petitioner no.3 is not the legal heir of Duklya Ganpat Tandel, whose property was acquired and the compensation is claimed. The trial Court in exercise of the powers under Section 151

read with 152 of the CPC, can permit the correction of the errors for the purpose of doing substantial justice to the parties.

5. Considering that there is no dispute that Savitribai Bhalchandra Patil and Chhaya Bhalchandra Patil are one and the same person and inadvertently by typographically error instead of Chhaya Bhalchandra Patil, the name is typed as Savitribai Bhalchandra Patil, the trial Court could have exercised its powers under Section 151 read with 152 of the CPC and permitted the correction of error. In view thereof, the impugned order passed below Exh.1 in Misc. Civil Application No.135 of 2022 rejecting the Petitioner no.3's application for correction of the name is hereby quashed and set aside.

6. As the impugned order is quashed and set aside, the application of the Petitioner stands allowed. The Petitioner no.3 is permitted to carryout necessary amendment in the Land Acquisition No. 2 of 2016 correcting her name as "Chhaya Bhalchandra Patil".

7. Petition stands allowed.

(Sharmila U. Deshmukh, J.)