

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3405 OF 2023

Amit Mohan Gharat 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.
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CORAM : SHARMILA U. DESHMUKH, J.

DATE : June 28, 2023.

P. C. :

1. Heard.
2. The petitioners' application for amendment in Execution Application No. 244 of 2019 came to be rejected on the ground that the amendment is required to be done in the original land acquisition reference. As such, the Petitioners filed Civil Misc. Appeal No. 136 of 2022 for amendment of LAR No.3 of 2016 and also for amendment of the judgment and order dated 12th February, 2019. The necessary documents in support of the application, which sought to correct the name of the Petitioner No.5, which was wrongly typed as Nilima Vaibhav Tandel instead of "Nilima Vaibhav Kadu" was filed. The

application having been rejected by order dated 19th January, 2023 is the subject matter of the prescient petition.

3. Learned counsel appearing for the Petitioners submits that the Petitioners had filed land acquisition reference under Section 28A(3) of the Land Acquisition Act, 1894, which came to be partly allowed by the judgment and order dated 12th February, 2019. He would contend that when the Petitioners preferred an application for withdrawal of the amount of compensation, it came to the notice of the petitioners that the name of the Petitioner no.5 was wrongly typed. He would further contend that the application for amendment has been rejected by the trial Court by observing that in case of land acquisition reference, the reference court cannot go beyond its jurisdiction and only the reference is required to be decided.

4. By order dated 3rd May, 2023, this Court considered the affidavit-in-reply of the respondent-State that the Respondent No.1 State desired to conduct proper inquiry to ascertain the correct name of the Petitioner No.5 in the original darkhast, and as such, had directed the Respondent-State to make the necessary enquiry regarding verification of the name of the Petitioner no.5.

5. Pursuant thereto, learned AGP has submitted a report dated 8th June, 2023 and as per the report, it is contended that as per the inquiry report submitted by the Talathi, Karel, both “Nilima Vaibhav Tandel” and “Nilima Vaibhav Kadu” are one and the same person.

6. Considering that there is no dispute that “Nilima Vaibhav Tandel” and “Nilima Vaibhav Kadu” are one and the same person and inadvertently, by reason of typographical error, the name is typed as “Nilima Vaibhav Tandel’ instead of “Nilima Vaibhav Kadu”, it was expected of the trial Court to exercise its power under Section 151 read with Section 152 of the CPC and permit the correction as prayed.

7. The provisions of Sections 151 and 152 of the CPC, protects the inherent powers of the Court to make such orders as may be necessary for ends of justice or to prevent abuse of the process of law and thereby permitting the amendment of judgment and decree or orders which may contain any clerical or arithmetical mistake by an accidental slip or omission. It is clear from the said provisions that the inherent powers of the Court is to be exercised to subserve ends

of justice. In the present case, due to typographical error in the name, the Petitioner No.5 cannot be deprived of the compensation in respect of the land which has been acquired.

8. In that view of the matter, the impugned order dated 19th January, 2023 cannot be sustained and hereby quashed and set aside. The application of the Petitioners' stands allowed and the name of the Petitioner no.5 be corrected by carrying out the necessary amendment in the Land Acquisition Reference No.3 of 2016.

9. Writ Petition stands allowed in the above terms.

(Sharmila U. Deshmukh, J.)