

Nikita

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.10651 OF 2019

Yamanappa Rajappa Akale Dec. Thr. Lhr.

And Ors.

... Petitioners

V/s.

Tukaram Kondiba Modak and Ors.

... Respondents

WITH

INTERIM APPLICATION NO.14702 OF 2023

Chandrabhaga Yamanappa Akale and

Ors.

... Applicants

V/s.

Tukaram Kondiba Modak and Ors.

... Respondents

Mr. Siddharth C. Wakankar for the
Petitioner/Applicants.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 28, 2023

P.C.:

1. The petitioners are original plaintiffs who filed suit for specific performance. The Trial Court by judgment and decree dated 31st January 1990, decreed the suit. However while passing the decree, instead of defendant, the Trial Court directed the plaintiffs to execute sale deed. If the judgment and issues in the judgment are considered, the Court intended to direct defendants to execute sale deed. This is obviously a typographical error, which

can be corrected under Section 152 of Code of Civil Procedure, 1908. The exercise of this contemplates the correction of mistakes by the court of its ministerial actions and does not contemplate passing of effective judicial orders after the judgment, and decree or order.

2. Therefore, the petitioners are at liberty to file application under Section 152 of Code of Civil Procedure, 1908.
3. Once the petitioners gets the decreed corrected, they will be at liberty to execute the decree.
4. Considering the fact that exercise of power is ministerial, the Trial Court shall consider the application under Section 152 of the Civil Procedure Code, 1908, on merits.
5. The writ petition is disposed of with aforesaid clarification.
6. In view of the disposal of the writ petition, nothing survives in the interim application. The same stands disposed of.

(AMIT BORKAR, J.)