

23.06.2025
Item no. 701.
Court No.6.
AB

C. O. 2316 of 2024

**Smt. Uma Dey
Vs
Ratanlal Barman**

Mr. Ayanava Bhattacharya
.....for the Petitioner.

This application under Article 227 of the Constitution of India is at the instance of the judgment debtor and is directed against an order no. 102 dated 18.06.2024 passed by the learned Civil Judge (Junior Division), 1st Court at Serampore, Hooghly in Title Execution No.10 of 2013.

The opposite party herein filed Title Suit No.108 of 2006 before the learned Civil Judge (Junior Division), First Court at Serampore. The said suit was decreed by the learned Civil Judge (Junior Division), First Court, Serampore, Hooghly by a judgment and decree dated August 31, 2009.

The petitioner challenged the said decree by filing a Title Appeal No.169 of 2009 which stood dismissed by a judgment and decree dated December 20, 2012. The said decree was put into execution giving rise to Title Execution Case No.10 of 2013.

The decree holder filed an application under Section 152 of the Code of Civil Procedure praying for correction of the name of the scheduled shop room

which was mentioned as “Lali Stores” in the schedule of the plaint but wrongly mentioned as “Lila Stores” in the decree.

The decree holder filed an application praying for correction of the typographical error which has crept in the name of the shop room in the decree passed by the learned Trial Judge.

Section 152 of the Code of Civil Procedure provides that clerical or arithmetical mistake in judgments, decrees or orders or errors arising therein from any accidental slip or omission may at any time be corrected by the Court either of its own motion or on the application of any of the parties.

The learned advocate for the petitioner submits that the learned Executing Court lacks jurisdiction to correct the erroneous description in the decree and the same should have been corrected by the learned Trial Judge and not the Executing Court. He further submits that such correction could not have been done in the execution proceeding.

It is not in dispute that the learned Civil Judge (Junior Division), First Court, Serampore, Hooghly was the Trial Court as well as the Executing Court. It is also not in dispute that there is an erroneous description of the suit property wherein only the name of the suit shop room was wrongly mentioned as “Lila Stores” instead of “Lali Stores”.

Though the correction of the decree was done by passing an order in the execution proceeding but the fact remains that the learned Civil Judge (Junior Division) First Court at Serampore being the Trial Court was vested with the power under Section 152 of the Code of Civil Procedure to correct the decree either of its own motion or on the application of any parties.

The error in the judgment is a clerical one. When Section 152 of the Code vested power upon the Trial Court to correct clerical errors, the order impugned does not suffer from infirmity merely because the same was passed in an execution proceeding. It is not a case where the Executing Court went beyond the decree.

Even if the contention of the learned advocate for the petitioner is accepted that the application was filed in the execution case but since Section 152 permits the Court to correct such errors on its own motion, this Court is of the considered view that the petitioner cannot be said to have been prejudiced by correction of the errors in the decree in exercise of the powers of the Trial Court.

For such reason, this Court is not inclined to interfere with the order impugned.

Accordingly, C. O. No.2316 of 2024 stands dismissed.

(Hiranmay Bhattacharyya, J.)

