

ORDER BELOW EXHIBIT 1
IN REGULAR CIVIL APPEAL NO. 95/2008
(SHIVAJI & OTHS. VS. PANDURANG & OTHS.)
(PASSED ON : 09/02/2023)

1. Today it is brought to my notice by Bench Clerk (Civil) that in the operative part of the order below application (Exhibit 84) the name 'Ramesh' is wrongly typed instead of 'Ganesh'.

2. I have gone through the record and proceeding in this application.

3. Section 152 reads as follows :-

“Amendment of judgments, decrees or orders- Clerical or arithmetical mistakes 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.”

4. The basis of the section is to be found in the maxim “Actus Curiae Neminem Gravabit” (an act of the Court shall prejudice no man). The maxim is found on justice and good sense and affords a safe guide for the administration of justice. Whenever a mistake is committed by the Court or its officers and short fall is detected, which may be likely to cause; prejudice to a party, it is the imperative duty and compulsive obligation of a Court to correct the mistake forthwith, Procedural provisions should not be taken as handle to deprive justice to a litigant, Procedural law is meant to facilitate and not to obstruct the course of substantive justice. It will be seen on a bare perusal of Section 152 of the Code that it is an enabling provision empowering Courts to correct clerical or arithmetical mistakes in judgments, decrees and orders or any error arising therein from any accidental slip or omission. The Court has unlimited power, once it finds that the mistake is clerical or arithmetical

or it is accidental slip or mission.

5. I would like to refer usefully Narhari Balku Kawade (dead) through heirs Shankar Narhari Kawade Vs. Hanmanta Timma Pujari (dead) through L.Rs. Hirabai Hanmanta Pujari, 2004(3) Mh.L.J.782, wherein His Lordship has held-

"That the said error ought to have been permitted to be corrected by the trial Judge by exercising powers under Section 152 read with section 151 and section 153 of the Civil Procedure Code. The power of the Court to make corrections for correcting errors arising due to accidental slip which are necessary for the ends of justice is not confined only to the power exercisable under section 152 of the Code. Extensive powers can be exercised even under Sec.151 & Sec.153 of the Code. It is eminently a case in which the accidental slip should be corrected as the correction is necessary for the ends of justice. It would be a blot upon the judicial administration if the Courts were powerless to do justice in a case of this sort where corrections are necessary in order to give effect to the intentions of the parties themselves. The correction is required to be made with a view to give true meaning to the bill of costs."

6. It transpires after going through Record and Proceeding that in the operative part of the order below application (Exhibit 84) the name 'Ramesh' is wrongly typed instead of 'Ganesh' due to typographical mistake. Thus, it is clear that there is definitely a clerical mistake and there cannot be any doubt that it was accidental slip. Keeping in mind legal position discussed in para No. 4 and the principles laid down in 2004(3) Mh.L.J.782, I am inclined to correct the operative order only in conformity with the facts on record.

8. In the result the following order.

ORDER

1.	The Bench Clerk, Civil is directed to correct the the operative part of the order below application (Exhibit 84) by deleting the name 'Ramesh' and by inserting the name 'Ganesh' in its place.
2.	The Superintendent is directed to collect the certified copy, if any issued to any party, of the operative order and correct it in consonance with corrected order.

(Pronounced in Open Court).

Date : 09/02/2023.

(M.B.Lambe),
District Judge-1,
Pandharpur.

C E R T I F I C A T E

I affirm that the contents of this PDF file Order is same word to word as per the original Order.

- (a) Name of the Stenographer : Sou. M. M. Kulkarni
- (b) Court : M. B. Lambe,
District Judge – 1 &
Addl. Sessions Judge, Pandharpur.
- (c) Order signed by P.O. on : 09/02/2023.
- (d) Order uploaded on : 09/02/2023.