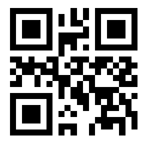


2026:BHC-KOL:3471

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6310 OF 2019

Bhimrao Rajaram Doke … **Petitioner**

Versus

Baliram Rajaram Doke and others … **Respondents**

***

Mr. Rugwed R. Kinkar a/w Mr. Drupad Patil, for the Petitioner.

Mr. Shardul Diwan i/b Mr. Rahul Kadam, for Respondent Nos.3,4 and 5.

***

SHAILAJA SHRIKANT HALKUDE
Digitally signed by SHAILAJA SHRIKANT HALKUDE
Date: 2026.05.05 17:16:27 +0530

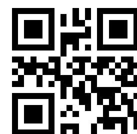
CORAM : M. W. CHANDWANI, J.

DATE : 4th May, 2026.

P. C. :

1. The present petition challenges the order dated 20th August, 2018 passed by the learned Joint Civil Judge, Junior Division, Karmala, District Solapur below Exhibit-1 in Regular Civil Suit No 219 of 1987, whereby the application preferred by respondent No.1 came to be allowed permitting amendment to be carried out in the decree purportedly in exercise of powers under Section 152 of the Code of Civil Procedure, 1908 on the ground that Gat number was mentioned accurately but share in property was mentioned wrongly.

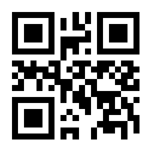
2. The suit for partition and separate possession was instituted by respondent No.1 (Original Plaintiff) against the remaining parties to the petition. It was contended that, in paragraph No. 1 of the plaint, the suit



property has been erroneously described as Gat No. 151 admeasuring 7 Hectares 48 R. Whereas, the correct description of the suit property 1A is Gat No. 151 out of the western side portion admeasuring 3 Hectares 19 R (i.e., 7 Acres and 39 Gunthas). Accordingly, an application for amendment of the decree came to be preferred.

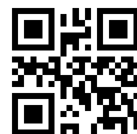
3. The present petitioner (Original Defendant No.2) has not disputed the factual position regarding the incorrect description of the property. However, the sole contention raised is that the proposed amendment does not pertain to a clerical or arithmetical error in the decree, but rather amounts to a correction in the plaint, which is impermissible under Section 152 of the Code of Civil Procedure, 1908. According to the petitioner, the appropriate remedy available to respondent No.1 was to file a review application. In support of the said contention, reliance has been placed on the decision in ***Dwaraka Das vs. State of M.P. and another***, **(1999) 3 Supreme Court Cases, 500**, wherein, in paragraph 6, it has been held thus:

> *"6. Section 152 C.P.C. provides for correction of clerical arithmetical mistakes in judgments, decrees or orders or errors arising therein from any accidental slip or omission. The exercise of this power contemplates the correction of mistakes by the Court of its ministerial actions and does not contemplate of passing effective judicial orders after the judgment, decree or order. The settled position of law is that after the passing of the judgment, decree or order, the court or the tribunal becomes functus officio and thus being not entitled to vary the terms of the judgments, decrees and orders earlier passed. The corrections contemplated are of correcting only accidental omissions or mistakes and not all omissions and mistakes which might have been committed by the Court while passing the judgment, decree or order. The omission sought to be corrected which goes to the merits of*



> *the case is beyond the scope of Section 152 for which the proper remedy for the aggrieved party is to file appeal or review application. It implies that the Section cannot be pressed into service to correct an omission which is intentional, however, erroneous that may be. It has been noticed that the courts below have been liberally construing and applying the provisions of Sections 151 and 152 of the C.P.C even after passing of effective orders in the lis pending before them. No Court can, under the cover of the aforesaid sections modify, alter or add to the terms of its original judgment, decree or order. In the instant case, the trial court had specifically held the respondent-State liable to pay future interest only despite the prayer of the appellant for grant of interest with effect from the date of alleged breach which impliedly meant that the Court had rejected the claim of the appellant insofar as pendente lite interest was concerned. The omission in not granting the pendente lite interest could not be held to be accidental omission or mistake as was wrongly done by the trial court vide order dated 30.11.1973. The High Court was, therefore, justified in setting aside the aforesaid order by accepting the revision petition filed by the State".*

4. No doubt, there is a typographical mistake in the plaint. However, the fact remains that, merely on account of such typographical error, a corresponding error has occurred in the judgment as well as in the decree. Therefore, it cannot be said that the present case pertains to a correction in the plaint simpliciter. The judgment and decree has already been passed by the Trial Court and, admittedly, it contains an incorrect description of the area of Gat No. 151. In view of the absence of any dispute on this aspect, I do not find any merit in the submission advanced by the learned counsel for the petitioner. So far as applicability of the decision in ***Dwarkadas*** (supra) is concerned, in the said case, *pendente lite* interest was not granted. The



Hon’ble Supreme Court observed that the Trial Court had rejected the appellant’s claim for *pendente lite* interest, and therefore, the omission to grant such interest could not be treated as an accidental omission. In the present case, the facts are entirely different. Here, the error in question is purely typographical, which has inadvertently crept into the judgment and decree. Consequently, the petitioner cannot derive any assistance from the aforesaid judgment. So far as the aspect of delay is concerned, nothing has been brought on record to demonstrate that the said mistake was within the knowledge of Respondent No.1 much prior to the filing of the present application for correction.

5. In view of the above, the petition is devoid of merits and is accordingly dismissed.

[M. W. CHANDWANI, J.]