

ORDER PASSED BELOW EXH.1 IN CIVIL APPLN. NO. 01/2018.
(CNR No.MHOS09-000575-2018)

Shivaji Deshmukh Vs. Dashrath Deshmukh & Ors.

1. The applicant has filed this application, praying that he be permitted to amend the compromise pursis in R.C.S. No. 219/2017.
2. By this application, the applicant has contended that R.C.S. No.219/2017 was decreed on dated 18/02/2017 as the compromise did take place therein. He has further contended that R.C.S. No. 211/2017 in lieu of R.C.S. No. 219/2017 was inadvertently written on the compromise pursis filed in R.C.S. No. 219/2017. With this, the applicant has prayed that this application be allowed.
3. Non-applicants appeared in the application. Non-applicant Nos.1 & 3 have filed their say at Exh.14 & however, non-applicant No.2 has filed his say at Exh.9, stating that they have no objection to allow this application.
4. I have heard Ld. Advocate Mr. Jadhavar for the applicant, & Ld. Advocate Mr. Gavali for non-applicants at considerable length & have gone through the record.
5. Upon perusal of the record & proceeding of R.C.S. No.219/2017, it is seen that the compromise pursis Exh.19 filed therein bears R.C.S. No.211/2017.

6. A profitable reference may be made of the judgment delivered in the case of **Vasant Laxman Deshmukh Vs. Sakharam Limbaji Jadhav, decided on 16th April, 1982**, wherein it has been held by the Hon'ble Bombay High Court that '*where the parties to the suit are definite about the disputed property & there is no dispute as to the identity of the property between the parties, and some mistake is committed in the description of the property & the parties litigating in the Court knowing that the dispute is in respect of a definite & undisputed identity of the property; in such a case, it cannot be said that it is an amendment of pleadings of the parties, but it is only a clerical mistake in describing the said property & such a mistake between the parties can be corrected while exercising the powers u/ss. 152 & 153 of the C.P.C.*'
7. Having given my considerable thoughts to arguments canvassed by Ld. Advocates for parties to this application & taking into consideration the ratio laid down in the case law cited *supra*, I have no hindrance to hold that this application deserves to be allowed. Holding so, I proceed to pass the following order.

ORDER

1. Application is allowed.
2. The applicant is hereby directed to correct the number of the suit as R.C.S. No.219/2017 instead of R.C.S.

No.211/2017 appearing on the compromise pursis Exh.19
filed in R.C.S. No.219/2017.

3. Parties to the application shall bear their own costs.
4. After carrying out necessary correction in the compromise
pursis Exh.19 filed in R.C.S. No.219/2017, the record &
proceeding thereof be sent to the Central Record Room,
District Court, Osmanabad.
5. Parties to the application shall take note of this order.
(Dictated & pronounced in the open Court).

Kallam.
Date-13/04/2018.

Sd/--
(S.S.Ubale),
2nd Jt. Civil Judge, Jr.Dn., Kallam.