



A.F.R.
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HIGH COURT OF JUDICATURE AT ALLAHABAD
MATTERS UNDER ARTICLE 227 No. - 1823 of 2025

Santosh and 4 others

.....Petitioner(s)

Versus

Smt. Asha Rani and 7 others

.....Respondent(s)

Counsel for Petitioner(s)	:	Bhanu Bhushan Jauhari, Rishi Bhushan Jauhari
Counsel for Respondent(s)	:	Rama Goel Bansal, Shalini Goel

ALONG WITH

MATTERS UNDER ARTICLE 227 No. - 5440 of 2025

Santosh and 4 others

.....Petitioner(s)

Versus

Smt. Asha Rani and 7 others

.....Respondent(s)

Counsel for Petitioner(s)	:	Bhanu Bhushan Jauhari, Rishi Bhushan Jauhari
Counsel for Respondent(s)	:	Rama Goel Bansal, Shalini Goel

Court No. - 33

HON'BLE MANISH KUMAR NIGAM, J.

1. Heard Sri Bhanu Bhushan Jauhari, learned counsel for the petitioners, Ms. Rama Goel Bansal, learned counsel for the respondents and perused the records.

2. The petition Matters Under Article 227 No. 1823 of 2025 has been filed challenging the order dated 20.12.2024 passed by Additional District Judge, Court No. 14, Bareilly, allowing the Civil Revision No. 26 of 2024 (Smt. Asha Rani and others vs. Santosh and others). The petition Matters Under Article 227 No.5440 of 2025 has been filed challenging the orders dated 03.02.2025 passed by the executing court in Execution Case No. 50 of 1994, (Pooran Lal (deceased) and others vs. Maya Devi (deceased) and others), as well as revisional order dated 15.04.2025 passed by District Judge, Bareilly in Civil Revision No. Nil of 2025, (Santosh and others vs. Smt. Asha Rani and others).
3. Both the petitions arise from the same suit and the same execution case, therefore they are being considered and decided together.
4. Brief facts of the case are that one Pooran Lal (predecessor in interest of the respondents) instituted a suit for specific performance of an agreement to sell dated 31.12.1967 executed by one Maya Devi (predecessor in interest of the present petitioners). By judgment and decree dated 29.04.1972 passed by the trial court, suit filed by the plaintiff (hereinafter referred to as "respondents") was decreed. The judgment and decree dated 29.04.1972 was challenged in appeal by defendant (hereinafter referred to as "petitioners") by filing a first appeal under Section 96 of the C.P.C. The first appeal referred above was allowed by judgment and order dated 05.03.1973 passed by the first appellate court and judgment and decree dated 29.04.1972 passed by the trial court was set aside and the suit was remanded by the appellate court to be decided by the trial court. After the remand, by the judgment and decree dated 21.02.1974, suit filed by the respondents was dismissed by the trial court. The judgment and decree dated 21.02.1974 was challenged by the respondents in Civil Appeal No. 76 of 1974, Pooranlal Vs. Smt. Maya Devi, which was allowed by District Judge vide judgment and order dated 21.04.1975 and the suit was decreed with cost and with a direction to the petitioners to execute the sale deed of the disputed house within thirty days from the date of order. The judgment and decree dated 21.04.1975 passed by the District Judge in Civil Appeal

No. 76 of 1974 was challenged before this court in Second Appeal No. 884 of 1975, Smt. Maya Devi Vs. Pooranlal. The second appeal was dismissed by this Court vide judgment and decree dated 23.01.2006. During pendency of second appeal, a conditional stay order was granted by this Court, however, since conditions of the stay order were not obeyed by the judgment debtors i.e. petitioners, execution application was filed by the respondents before the Munsiff City, Bareilly on 02.10.1994 which was registered as Execution Case No. 50 of 1994. Both original plaintiff and defendant died during the pendency of the execution case and were substituted by present respondents and the petitioners respectively. In the execution case, respondents filed draft sale deed to be executed by the petitioners before the executing court marked as paper No. 69-C. In the draft sale deed, the address of the property to be transferred was mentioned to be situated at Mohalla-Siklapur, Bareilly. The petitioners filed their objection to the draft sale deed, paper No. 70-C challenging the details of the property. On 30.01.2024, the respondents filed application paper No. 91- C wherein it was stated that while preparing the decree, house in question has been referred to be situated at Mohalla-Gulab Nagar instead of Mohalla-Siklapur. It was also stated in the application that the error is because of mistake of the clerk, who prepared the decree and is liable to be corrected. To application paper No. 91-C, objections were filed by the petitioners being paper No. 92-C, wherein it was stated by the petitioners that the decree was passed regarding house situated at Mohalla-Gulab Nagar, Bareilly, on the basis of description given in the plaint and in the garb of the said decree, the respondents were trying to grab the house of the petitioners situated at Mohalla-Siklapur, Bareilly. The executing court by order dated 08.04.2024 directed the respondents to file original agreement to sell or certified copy of the same, so that, execution application may be decided. Thereafter, the respondents filed application paper No. 96-C under Sections 151/152/153 read with Section 47 C.P.C. and prayed that in all the necessary documents, instead of Gulab Nagar, words Siklapur be written. The petitioners thereafter

filed their objection being paper No. 99-C for rejection of the aforesaid application paper No. 96-C. By order dated 27.08.2024, the application paper No. 96-C filed by the respondents was rejected by the executing court. Against order dated 27.08.2024 passed by the executing court, Civil Revision No. 26 of 2024 was filed by the respondents before the District Judge, Bareilly. The District Judge, Bareilly vide judgment and order dated 20.12.2024 allowed the revision filed by the respondents and set aside the order dated 27.08.2024 and has also held that order dated 08.04.2024 passed by the executing court is of no consequence. The order dated 20.12.2024 was challenged by the petitioners by filing Matters Under Article 227 No. 1823 of 2025, Santosh Kumar and others versus Smt. Asha Rani and others, which is one of the two connected petitions which are being decided. Since there was no interim order granted by this court in Matters Under Article 227 No. 1823 of 2025, the executing court proceeded with the matter. On 28.01.2025, the petitioners filed their further objection to the application paper No. 96-C filed by the respondents. The executing court, by order dated 03.02.2025 allowed the application paper No. 96-C. In pursuance of order dated 03.02.2025, the decree passed by the trial court was also amended. The order dated 03.02.2025 was challenged by the petitioners by filing Civil Revision No. NIL of 2025, to which objections were filed by the respondents. By order dated 15.04.2025, the revisional court i.e. the District Judge, has dismissed the revision filed by the petitioners. Hence Matters Under Article 227 No. 5440 of 2025 is filed.

5. Contention of learned counsel for the petitioners is that dispute between the parties before the executing court was as to the details of the property of which sale deed was to be executed i.e. whether the same was situated at Mohalla- Gulab Nagar or Mohalla-Siklapur. Counsel for the petitioners further contended that the decree sought to be executed was passed for the house situated at Mohalla Gulab Nagar and not at Siklapur. The respondents in their application paper No. 91-C had admitted that there was no mistake in the decree and the decree as such was to be executed. Later on, the respondents moved an application

paper No. 96-C for correction, in all the records of the execution case, changing the location of the house in question from Mohalla-Gulab Nagar to Mohalla-Siklapur. It has been further submitted by learned counsel for the petitioners that if there is any discrepancy in the decree sought to be executed, the same can only be corrected by the court which has passed the decree, and the decree cannot be corrected in execution proceedings. It has also been contended by learned counsel for the petitioners that by the order impugned, the executing court has allowed and corrected the decree by changing the description from Mohalla-Gulab Nagar to Mohalla-Siklapur while allowing the application filed by the respondents. It has been further submitted that executing court cannot go behind the decree and it has to execute the decree as it is, and executing court cannot correct or modify the decree.

6. Per contra, learned counsel for the respondents submitted that there was no mis-description of the property in the suit, as the same was apparent from the averments made in the plaint. It has been further submitted by learned counsel for the respondents that because of clerical error committed by the clerk, who prepared the final decree, Mohalla-Gulab Nagar was mentioned in the decree instead of Mohalla-Siklapur, which is contrary to the averments made in the plaint as well as in the judgment passed by the District Judge, which was sought to be executed. It has also been submitted by learned counsel for the respondents that an error apparent on the face of the record, and wrong description given in the decree which is contrary to the averments made in the plaint, can always be looked into and corrected by the executing court. Learned counsel for the respondents further submitted that in view of Section 47 C.P.C, all the questions arising between the parties to the suit in which the decree was passed relating to the execution, discharge or satisfaction of the decree shall be determined by the court executing the decree. It has been further submitted that no error has been committed by the executing court in correcting the decree to the effect that description of property “at Mohalla Gulab Nagar” was corrected to “Mohalla Siklapur”. An inadvertent error at the time of preparing of the decree,

can be corrected in exercise of powers under Sections 151, 152, 153 C.P.C. and also under Section 47 C.P.C. while determining the questions relating to execution, discharge or satisfaction of the decree.

7. In support of his submissions, learned counsel for the petitioners relied upon following judgments:-

Durga Singh vs. Wahid Raza & Ors; AIR 1965 ALL 226, Rakesh Kumar & Ors Vs. Ashok Kumar & Anr; 2015(6) ADJ 102, M/s Gojer Brothers Ltd Vs. Shri Ratan Lal Singh; AIR 1974 SC 1380, Lala Brij Narain Vs. Kunwar Tejbai Bikram Bahadur; (1910) L.R. 37 I.A. 70; MANU/PR/0001/1910, Chandi Prasad & Ors Vs. Jagdish Prasad & Ors; (2004) 8 SCC 724, Nagesh Datta Shetti & Ors Vs. State of Karnataka & Ors; (2005) 10 SCC 383.

8. Learned counsel for the respondents relied upon judgments in case of: **Pratibha Singh & Another Vs. Shanti Devi Prasad & Another; 2003 0 AIR (SC) 643, Mahadeo S/o Punjaji Malokar vs Mahadeo S/o Pandurang Dhanorkar; 2023:BHC-NAG 15832, Tilak Raj vs Baikunthi Devi (D) By Lrs; AIR 2009 SC 2136, Madhav Tukaram Kulal & Anr. Vs. Kisan Ayaji Bodakhe & Ors; 2007 (4) AIR BOM R 500, Hindustan Petroleum Corporation Ltd. Vs. Ajay Bhatia; AIR 2022 SC 4739, Shyama Natural Pharma & Herbals Ltd Vs. Bake Well Engineering (P) Ltd. ; 2004 SCC Online (Del) 248, Periyammal (Dead) Through Lrs & Ors Vs. Rajamani & Anr; 2025 (9) SCC 568.**

9. Section 47 of C.P.C. is the one of the most important provisions in the Code relating to execution of decrees. It enacts that the Court executing the decree shall determine all questions arising between the parties to the suit or their representatives, relating to execution, discharge or satisfaction of the decree. The scope of Section 47 of C.P.C. is very wide and comprehensive. Exclusive jurisdiction has been conferred on the executing court in respect of all matters relating to execution, discharge or satisfaction of a decree arising between the parties or their representatives. Once the suit is decreed, this section requires that

executing court should alone determine all questions in the execution proceedings and filing of the separate suit is barred.

10. The underlying object of Section 47 of C.P.C. is to provide extensive and expeditious remedy for determination of all the questions relating to the execution of a decree only in execution proceedings without recourse to a separate suit. It thus, seeks to prevent needless and unnecessary litigation. In **M. P. Shreevastava vs Mrs. Veena; AIR 1967 Supreme Court 1193**, after referring to various decisions, the Supreme Court observed that Section 47 of C.P.C. enacts the salutary rule that all questions relating to execution, discharge or satisfaction of the decree should be determined in execution proceedings only.
11. Section 47 of C.P.C. confers plenary powers on the executing court for determining all questions arising between the parties to the suit in which the decree is passed.
12. In **Ramchandra Spg. & Wvg. Mills vs Bijli Cotton Mills & Ors; AIR 1967 SC 1344**, the Supreme Court observed: “ *It has been consistently held in a number of decisions by the Privy Council and the High Courts that Section 47 is wide and should be liberally construed so as not to drive the parties to a separate suit and thereby prolong litigation. All questions relating to the execution, discharge or satisfaction of the decree which arise between the parties fall within the scope of this section.*”
13. In order that this section may apply, the following conditions must be satisfied: (I), the question must be one arising between the parties to the suit in which the decree is passed or their representatives and (II) it must relate to execution, discharge or satisfaction of the decree. Both these conditions must be satisfied cumulatively.
14. Expression, “relating to execution, discharge or satisfaction of the decree”, has not been defined in the Code, can presumably with a view to say that it remains flexible. The phrase is comprehensive enough to include any question which furthers, hinders, or in any manner affects the execution of the decree. However, the expression (after relating to

execution, discharge or satisfaction of the decree) must be construed reasonably, no artificial extension is permissible. Each and every question raised by a party to the suit cannot be considered by the executing court, even if it may relate to execution, discharge or satisfaction of the decree. Such question must arise in the course of execution and must relate to enforcement of obligation created by decree and should be referable to matters arising subsequent to the passing of the decree. The questions contemplated by Section 47 are those questions which were not raised at the trial and not decided by the court. If the question was raised before the court and was decided by the trial court, it is not open to the parties to raise it again at the stage of execution. Likewise, a question cannot be raised before the executing court if such question ought to have been raised by a party before the trial court, but he omits to raise it.

15. Section 47 enjoins the executing court to decide all questions relating to execution, discharge or satisfaction of the decree. Section 47(1) is mandatory, the words of the section are peremptory and if the case is covered by this provision, the Court is bound to decide it in execution and it has no discretion to refer the party to a separate suit. The word 'determine' conveys that the questions contemplated by Section 47 should be finally disposed of. The questions of the fact as well as of the law can be decided by the court under Section 47 C.P.C.
16. Before considering the legal submissions, it would be appropriate to look into the factual position as it stands from the pleadings.
17. The plaint of Original Suit No. 96 of 1968 has been annexed as Annexure No. 3 at page No. 57 of the paper book. In paragraph No. 1 of the said plaint, it has been stated that the defendant i.e, predecessor in interest of the petitioners, is the owner of the house situated at Mohalla-Siklapur, bounded and detailed at the foot of the plaint. Paragraph No. 1 of the plaint is quoted as under:

"1. That the defendant is the owner of a house situate at Bareilly Mohalla Siklapur bounded and detailed at the foot of the plaint which she was anxious to dispose off."

- 18.** In relief (a) of the plaint quoted in paragraph No. 15 of the plaint, it was prayed by the plaintiff that defendant be directed to execute a sale deed of disputed house situated at Bareilly, Mohalla Siklapur, bounded and detailed at the foot of the plaint. From the perusal of the plaint, it is apparent, while giving the boundaries of the house at the foot of the plaint, it has been mentioned as boundaries of the house situated at Bareilly Mohalla- Gulab Nagar. Paragraph No. 15 (a), as well as boundaries as mentioned in the suit, are quoted as under:-

"15....

a- That the defendant be directed to execute a sale deed of the disputed house situated at Bareilly Mohalla Siklapur bounded and detailed at the foot of the plaint within such time as may be ordered by this Hon'ble Court on payment of the balance sale consideration and deliver possession thereof to the plaintiff failing which the sale deed be get executed and registered through court and the possession over the said house be ordered to be delivered to the plaintiff.

Boundaries of the house situate at Bareilly Mohalla Gulab Nagar.

East- House of Ram Gopal and others

West-Road

North House of Lal Ji.

South- House of Hulas Rai"

- 19.** In the written statement filed by the defendant-petitioners in the aforesaid suit, which has been annexed along with supplementary affidavit as Annexure S.A.1, the defendant-petitioners have admitted paragraph No. 1 of the plaint. Paragraph No. 15 of the plaint has been stated to be legal. In paragraph No. 2 the defendant has admitted the execution of agreement to sell. I have also perused the true copy of the Hindi translation of original Urdu agreement filed by the petitioners along with supplementary affidavit as Annexure S.A. 4. In the aforesaid agreement, Mohalla of the house for which agreement to sell was

executed was not given, but the boundaries of the house are given, which are as under:

East- house of Ram Gopal, etc.,
 West-public road (Sadak Sahakari)
 South- Makan of Hulas Ram
 North- Rasta Makan, Ram Gopal.

Boundaries as given in the plaint are as under:

East- House of Ram Gopal and others
 West-Road
 North House of Lal Ji.
 South- House of Hulas Rai

20. In the execution application as well as draft sale deed submitted by respondents/ defendants, house is claimed to be at Siklapur with the boundaries as given in the plaint.

21. The question whether a particular property is or is not covered under the decree or dispute as to description of the property whether correct or not is a question concerned under this Section. Such question relates to execution, discharge or satisfaction of the decree. The question cannot be determined in a separate suit. The question regarding identity of the property is a question relating to execution, discharge or satisfaction of the decree. It is true that an executing court cannot go behind the decree. It must take the decree as it stands and execute it according to its terms. It has no power to amend, varying, modifying, or substituting. Where there is no ambiguity in the terms of the decree, a plain meaning must be given to the words used. Where the terms of the decree are clear and unambiguous, the effect must be given to such terms at the same time, however, wherever the decree is vague or ambiguous, it is competent to the executing court to go behind the decree and look into the judgment, even the pleadings and to get assisted in order to have the ambiguity dispelled. Section 47 of the C.P.C. would not be a bar to such course being adopted.

22. In the facts of the present case, it is clear that parties were quite clear about the identity of the property for which they were litigating for and there was no doubt or ambiguity in relation to identity of the suit

property. However, inadvertently, due to typographical error at the foot of the plaint, Mohalla Gulab Nagar was incorrectly mentioned instead of Mohalla Siklapur. In paragraph No. 1 as well as paragraph No. 15 of the plaint, it has been stated that house situated at Mohalla Siklapur was the property for which the agreement was executed and suit was instituted. Paragraph No. 1 of the plaint has been admitted by the defendant and paragraph No. 15 was stated to be legal. The agreement is of the year 1967 and the execution was filed in the year 1994.

23. The boundaries as given in the agreement to sell and in the plaint, three boundaries exactly match. There was misdescription of the Mohalla at the bottom of the plaint, in my view, same cannot be fatal to the case of the decree holders. Other than that, the remaining description of the property is quite clear and unambiguous. The executing court had ample powers to refer the pleadings of the parties, qua, decree passed in the suit.
24. For correction of the description of the suit property in the plaint, amendment is permissible under Order VI Rule 17 of C.P.C., when the court is in seisin of the suit. After disposal of the suit, the amendment cannot be carried out under Order VI Rule 17 of the C.P.C. In such a situation, the plaintiff can take recourse to Sections 151, 152 of the C.P.C. for correction of this error to determine the real question of the suit, the amendment can be allowed in any proceedings including the execution. In my opinion, though Section 152 of the C.P.C cannot be invoked to amend the plaint, 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, but extensive power can be exercised even under Sections 152 and 153 of the Code. The correction is required to be made with a view to give true meaning to the decree.
25. The defendant while contesting the suit, filed the written statement, participated in framing of issues, took cross-examination, argued the matter, and during all these stages, he challenged the claim of

the plaintiff in the suit. From the defence, the court has gathered knowledge of the defendant, whether he has despite of correct description has challenged the claim of the plaintiff about the correct suit property or the defendant was really misled or has misconception of the facts of the suit property due to wrong description.

26. In my view, in the present case, the suit was contested by the defendant by filing written statement, wherein he has not challenged that the property is not situated at Siklapur, rather he has admitted the averment of the plaintiff regarding the same. Further, no such objections were taken by the petitioners in appeal or in execution proceedings prior to the present application filed by the respondents. Thus, it cannot be held that the defendant was misled. The mistake committed by the respondents was of clerical nature which can be corrected by applying provisions of Section 152 of the C.P.C or in exercise of power under Section 47 C.P.C while determining the questions relating to execution, discharge or satisfaction of the decree by the executing court itself.

27. Learned counsel for the petitioners relied upon the judgment in case of Durga Singh (*supra*). This court has taken a view that after dismissal of the the second appeal by the High Court under Order XLI Rule 11 C.P.C, the application for amendment of decree lies to the High Court and not to the lower appellate court. This court has held the appellate decree is the final decree and the decree of the lower court merges with it. The doctrine of merger applies even where a second appeal has been dismissed by the High Court summarily under Order XLI Rule 11 of C.P.C. It follows that in such a case, application for amendment of decree must be made to the High Court and not to the lower court.

28. In case of Chandi Prasad (*supra*) relied upon by the petitioners, it was held by the Supreme Court, since the final decree was passed in second appeal on 30.10.1986, therefore the decree of the trial court merged with that of the High Court and therefore execution application

filed taking date of decree of the High Court to be starting point of limitation, is not barred by time.

- 29.** In case of M/s. Gojer Brothers (Supra), relied upon by counsel for the petitioners, the Supreme Court held that the decree of the trial court dated 24.11.1958 merged in the decree of the High Court dated 08.01.1969. Since the decree of the High Court was passed after the commencement of West Bengal Premises Tenancy (Amendment) Act, 1968, i.e. to say after August 26, 1967, Section 17-D of the Act of 1956 can have no application and therefore, the decree of the High Court, which is the only decree to be executed, cannot be set aside under that Section. In all the judgments relied upon by counsel for the petitioners, the Supreme Court as well as this Court was considering the doctrine of merger and has held that the decree of the trial court merges with the decree of High Court. There is no dispute to the said proposition.
- 30.** In the case, in hand, the question is not of merger of the decree, but the power of the executing court to correct the decree passed by the court in exercise of its power under Section 47 C.P.C. and therefore, in my view, these judgments are not of much help to the petitioners.
- 31.** There is no dispute to the proposition of law that a court passing the decree can always correct the same on an application of either of the parties to the suit. Judgment relied upon by the petitioners mentioning herein above lays down that because of merger of decree, power of amendment in the decree can be exercised by the court which has passed the last/final decree. In the present case, the question involved is as to whether the decree can be corrected by the executing court where the execution of decree is pending or the same can only be corrected by the court which has passed the decree. According to the petitioners, it is only the court which has passed the decree can correct the decree and not the executing court. The submission of learned counsel for the respondents is otherwise.
- 32.** In case of Rakesh Kumar and others (supra), relied upon counsel for the petitioners, this court has taken a view that amendment in the

execution application cannot be permitted unless the decree sought to be executed itself was not amended as the prayer in execution could be only in accordance with the decree. Once the decree specified the property as consisting of four rooms on third floor, no prayer could be permitted by way of amendment in execution to seek relief in respect of four rooms on second floor.

33. I have perused the judgment and the aforesaid judgment is not applicable to the facts of the present case. In case of Rakesh Kumar (supra) the defendant applied for amendment in the execution application without asking for amendment in the decree. In the present case, the plaintiff decree holders have sought the amendment in the decree itself before the executing court, which has been allowed by the executing court.

34. Learned counsel for the respondents relied upon the judgment of the Hon'ble Supreme Court in the case of Pratibha Singh (supra), wherein it has been held by the Supreme Court in paragraph No. 16 of the judgment as under:-

“16. When the suit as to immovable property has been decreed and the property is not definitely identified, the defect in the court record caused by overlooking of provisions contained in Order 7 Rule 3 and Order 20 Rule 3 of the CPC is capable of being cured. After all a successful plaintiff should not be deprived of the fruits of decree. Resort can be had to Section 152 or Section 47 of the CPC depending on the facts and circumstances of each case which of the two provisions would be more appropriate, just and convenient to invoke. Being an inadvertent error, not affecting the merits of the case, it may be corrected under Section 152 of the CPC by the Court which passed the decree by supplying the omission. Alternatively, the exact description of decretal property may be ascertained by the Executing Court as a question relating to execution, discharge or satisfaction of decree within the meaning of Section 47 CPC. A decree of a competent Court should not, as far as practicable, be allowed to be defeated on account of an accidental slip or omission. In the facts and circumstances of the present case we think it would be more appropriate to invoke Section 47 of the CPC.”

35. In case of **Kassim Beevi Vs. Meeranchi Mytheen Beevi and others; 1986 SCC Online Ker 305**, in paragraph Nos. 2 and 3 of the judgment, Kerala High Court has held as under:-

“2. The suit was fought on various points right up to this court and was decreed. The plaintiff filed E.P. No. 349 of 1977 with a draft sale deed, the boundaries in which did not tally with the description in Ext.P2 and in the plaint or in the decree, both of which had reproduced the boundary

description in Ext.P2. The difference in the boundaries was consequent on the mistake in the boundaries as described in Ext.P2 as pointed out earlier. The decree-holder also filed application for correction of the decree, inter alia regarding the boundaries of the property described in the decree schedule. That application was dismissed on the ground that the application for amendment lay only to this court in view of the fact that the matter had been taken up in second appeal to this court. The decree-holder filed C.M.P. No. 13226/82 for amendment of the decree in this court, whereupon this court held that the execution court itself had jurisdiction to construe the decree and decide as to what was the property to which the decree related with reference to the pleadings, judgments and other records. It was stated that on the basis of such adjudication the decree-holder was entitled to relief in respect of the property actually involved in the suit in spite of the misdescription. The petition was closed with these observations. Thereafter the decree-holder filed the present execution petition with a draft sale deed in which he incorporated the boundary descriptions of the property as set out in Ext.D2, the sale deed in favour of the petitioner. Despite the fact that the property involved in Ext. D2 and the property forming the subject matter of the decree was one and the same and the fact that the decree-holder was entitled to have a deed of sale executed in his favour in respect of that property, the execution petition was vehemently opposed by the petitioner as if the court had no right to have the sale deed executed with the correct boundary descriptions. The various contentions were overruled by the lower court and the executing court approved the draft sale deed produced by the decree-holder. The revision is filed therefrom.

3. This is one of those cases where the execution of a decree is attempted to be stalled on mere technicalities. The suit itself was keenly fought out by the petitioner. The matter was carried through three courts. Thereafter when the execution is taken, technical pleas are raised as if the court is precluded from taking note of the actual state of affairs and conveying the property with a proper sale deed describing the actual boundaries. It is not as if there was any dispute as to the property in regard to which specific performance was sought. It was not in dispute that the property covered by Ext.P2 and that sold as per Ext. D2 was one and the same. That there was a mistake in the boundary description in Ext.P2 is also clear from the observations in para 13 of the judgment in the suit. The plaintiff is entitled, in a suit for specific performance, to have the property agreed to be sold to him conveyed with a proper, correct and effective deed of sale. When there is no dispute regarding the identity of the property, there is no reason why the actual boundaries of the property, as understood by all the parties, should not be incorporated in the sale deed to avoid any possible confusion in future. It is not as if by doing so the court is traversing beyond the decree or causing any prejudice to any of the parties or conveying property not agreed to be conveyed. In a case of this nature the court is bound to carry out and implement its decree in accordance with its tenor, which in turn would imply that the property should be correctly described with the proper boundaries. That is all that has been done by the lower court in approving the draft sale deed. The plaintiff has only incorporated the boundaries from Ext. D2, the sale deed in favour of the petitioner. In the absence of any dispute that this was the property which was the subject matter of Ext.P2 also, the lower court has only acted rightly in approving the draft sale deed. I do not find any merit in the revision petition. It is dismissed with costs.”

36. In case of **Tilak Raj Vs. Baikhunthi Devi (D) By Lrs; AIR 2009 SC 2136**, the Hon'ble Supreme Court has held in paragraph Nos. 13, 14, and 15 of the judgment as under:-

"13. We have perused the submissions made by the counsel appearing for both the parties and scrutinized the whole record. On appreciation of the records, we are of the opinion that the Patwari had issued a wrong certified copy of Jamabandi incorporating therein Khasra No. 25R/52 against Khewat No. 50 Khatoni No. 60 of jamabandi for the year 1966-67 of village Mojowal. In fact there was no Khasra No. 25R/52 whereas it was actually 26R/52. On the basis of and on account of such wrong supply of materials in the certified copy of Jamabandi, the appellant had sued by wrongly mentioning identity of land as Khasra No. 25R/52. There was no dispute that the parties in the earlier suit were agitating regarding the Estate of Datta Ram. In that view of the matter the appellant was not at fault at all for suing the land as mentioned in the para A of the plaint filed in suit no. 149 of 1979. Actually, this was a mistake on the part of the Patwari or some Revenue Officer, who had issued the aforesaid Khasra Girdawari. It was nowhere disputed that Khasra No. 26R/52 was owned by Datta Ram and there was no Khasra Number described as 25R/52. Moreover, no rebuttal on behalf of the respondent was made in the written submissions in Civil Suit No. 306 of 1969 or otherwise that it was not Khasra No. 25R/52.

14. The aforesaid mistake was of clerical nature which could have been corrected by applying the provisions of Section 152 of the CPC. Counsel appearing for the respondents also during his submissions fairly accepted the aforesaid position. The remedy that was available to the appellant was to file an application seeking for amendment of the decree by way of correcting the clerical mistake in respect of Khasra Number. Since the mistake was clerical in nature and the appellant being not responsible for the said clerical mistake which had occurred due to wrong recording of Khasra Number in Khasra Girdawari, we find no reason as to why such a genuine and bona fide mistake cannot be allowed to be corrected by exercising the powers under Section 152 of the CPC. In K. Rajamouli vs. A.V.K.N. Swamy, (2001) 5 SCC 37, this Court held as follows:-

"Section 152 provides that a 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".

15. Since the court exists to dispense justice, any mistake which is found to be clerical in nature should be allowed to be rectified by exercising inherent power vested in the court for sub-serving the cause of justice. The principle behind the provision is that no party should suffer due to bona fide mistake. Whatever is intended by the court while passing the order or decree must be properly reflected therein otherwise it would only be destructive of the principle of advancing the cause of justice. In such matters, the courts should not bind itself by the shackles of technicalities."

37. So far as contention of learned counsel for the petitioners that it is the appellate court which confirms the decree, can alone correct the decree and not the executing court, is not sustainable and the case laws cited by learned counsel for the petitioners has no bearing upon the case at hand.

38. On a perusal of the ratio in Pratibha's case (supra) it is apparent that the plaintiff had been remiss in the pleadings in wrongly describing the property at the bottom of the plaint. Had the immovable property been correctly identified, there would have been no vagueness that could have been pleaded in the execution of the decree. Courts of law are ever mindful of the fact that the plaintiff should not be denied the fruits of the decree and if some nebulous question has to be determined in execution proceedings, the Court should not hesitate from doing so. In the present case, undoubtedly pleadings have been made by the plaintiff/respondents in paragraph Nos. 2 and 15 of the plaint that the house in dispute was situated in Mohalla-Siklapur, which was never denied at any point of time by the defendant, except for at the time of execution.
39. As observed by the Hon'ble Supreme Court in Pratibha Singh's case, the litigant cannot be deprived of the fruits of the decree for accidental slips and omissions. In this case, the slip ought to be said to be accidental and typographical only. The plaintiffs have fought from the trial court to High Court. They could not be deprived of fruits of the decree for such inadvertence. The executing court has committed no error in correcting the description of the property in the decree.
40. Learned counsel for the petitioners could not show me any perversity or any illegality in the orders. I, therefore, see no merits in the present petitions and they are **dismissed** without cost.

(Manish Kumar Nigam,J.)

July 1, 2026

Nitika Sri.