

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

C.R.No.1192 of 2013 (O&M)

Date of Decision: December 15, 2015

Kulwinder Kaur

...Petitioner

Versus

Paramjit Singh & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr.Vaibhav Sehgal, Advocate,
for the petitioner.

AMIT RAWAL, J. (Oral)

The petitioner-decree holder is aggrieved of the order declining the application filed under Order 6 Rule 17 CPC for amendment of the plaint and under Sections 151 and 152 CPC for modification of the judgment and decree dated 1.9.2003.

Mr.Vaibhav Sehgal, learned counsel appearing on behalf of the petitioner submits that in a suit for injunction, due to inadvertence, number of the house, which is actually 11483, was mentioned as 11477. The evidence was led in respect of H.No.11483 and not of H.No.11477. In this regard, he has drawn the attention of this Court to the documents, i.e., electricity bill, telephone bill, ration card and driving licence to show that the address of petitioner Kulwinder Kaur is 11483 and not 11477. However, the trial Court has declined the application by relegating the petitioner to file a fresh suit. In this regard, he has relied upon the judgment of this Court

in **Tilak Raj Versus Baikunthi Devi and others, 2006(4) RCR (Civil) 536**

to contend that provisions of Section 152 CPC deal with the rectification of the errors, which contain in the description of the suit property.

There is no representation on behalf of the respondents.

Learned counsel for the petitioner has brought to the notice of this Court that the respondents are residing in Canada and have not returned back to India and have been declared proclaimed offender in a criminal case titled as State Versus Onkar Singh etc.

I have heard the learned counsel for the petitioner and appraised the paper book.

The ration card, electricity bill and driving licence would reveal that the address of petitioner Kulwinder Kaur is H.No.11483 and not 11477. Even the defendants in the suit had been proceeded against *ex-parte* and moved an application under Order 9 Rule 13 CPC and in that case, description of the property has correctly been given. An application was filed in which evidence was led and the attorney of respondent No.2 deposed that the house number is 11483. It would be apt to reproduce the relevant portion of the cross-examination of AW-1 Kuldeep Singh, which reads thus:-

“Kulwinder Kaur forcibly possession to the property no.11483 situated at new Subhash Nagar, St.no.10 Ldh. and quarrel took place at that time. The house number of the property is not 11477 but it is 11483. The number of the property has been given wrongly as 11477. I was having the power of attorney of property in dispute i.e. 11483.”

In my view, the trial Court has committed illegality and perversity in not allowing the application as the ratio decidendi culled out by this Court in **Tilak Raj's case (supra)** is squarely applicable in this case

for the reason that the provisions of Section 152 CPC deal with the rectification of the errors, much less misdescription of the suit property. In case the petitioner is relegated to file fresh suit, the plaintiff may not be confronted with the applicability of the provisions of Order 2 Rule 2 CPC.

Keeping in view the aforementioned facts, the impugned order is set-aside and the application seeking rectification of the judgment and decree is allowed. The judgment and decree dated 1.9.2003 is modified in terms of the prayer made in the application.

Revision petition stands allowed.

December 15, 2015
ramesh

(AMIT RAWAL)
JUDGE