

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA  
AT CHANDIGARH

CR No.642 of 2015

Date of decision: January 28, 2015.

Gurbax Singh

... **Petitioner**

v.

Charan Dass and another

... **Respondents**

CORAM: **HON'BLE MR. JUSTICE DR. BHARAT BHUSHAN PARSOON**

Present: Shri Madan Gupta, Advocate, for the petitioner.

**Dr. Bharat Bhushan Parsoon, J. (Oral):**

Based on agreement to sell dated 17.10.2006, suit for seeking a decree of specific performance was passed in favour of the plaintiff, petitioner herein.

2. Description of the property had been given in the agreement to sell as also in the plaint on the basis of which evidence was led by the plaintiff and the decree was passed. When the defendant did not come forward, it was held that the plaintiff was entitled to get the sale deed executed through the court of law. At the stage of execution of the decree dated 14.2.2008, the plaintiff, petitioner herein, noticed that dimensions of the property in litigation had been wrongly given not only in the decree sheet but also in the agreement to sell and in the pleadings of the plaintiff as well.

3. Consequently, an application under Order VI Rule 17 read with Section 151 and 152 CPC for amendment of the plaint, site plan attached with the plaint and amendment in judgment and decree dated 14.2.2008 was sought. The lower court taking all these facts into consideration, came to the conclusion that there was no merit in the application. Sequelly, the same was dismissed. This revision petition challenges the said order dated 15.11.2014.

4. Counsel for the petitioner-revisionist had urged that the court has powers to amend the decree but did not exercise the same causing great prejudice to the petitioner-plaintiff. It is claimed that it is merely an accidental slip or omission and the learned trial court erred in passing the impugned order.

5. Foundation of the case of the petitioner-plaintiff is the agreement to sell dated 17.10.2006. Pleadings of the petitioner-plaintiff were also based on the said agreement. Evidence was led by the plaintiff to prove and substantiate his pleadings by leading evidence commensurate with the averments in the plaint. Sequently, the decree dated 14.2.2008 was passed.

6. Even after passing of the decree, the court is not rendered powerless to correct accidental slip or omission appearing in the decree but the present case is entirely different. In this case, the mistake is not of the court. The basic document on which, case of the plaintiff was based is the agreement to sell dated 17.10.2006 which itself gives wrong description of the property and this mistake consistently travelled in the pleadings as also in the evidence led by the plaintiff. The entire dispute was thoroughly examined by the court below and observations of the court, with approval, are reproduced herein-below:-

*“In such a case, I would not go to the extent of holding that the court has no power to correct the judgment, decree or order which has repeated the mistake. In doing so, the court need not correct the pleadings or the document but its own decision. The power cannot be extended to the resolving of controversial points and a decision as to what the parties intended or did not intend to do.”*

7. Considering other aspects as also alleged hardship to the petitioner, plaintiff/decreed holder, the court further made an observation, which again is fully endorsed and is reproduced as below:-

*“Apart from this exceptional case, I hold that the court cannot correct errors anterior to the proceeding before it. For such purpose, the proper proceeding is by way of a suit under Section 31, Specific Relief Act. Therefore, the application at this stage is not maintainable as this is only the executing court, which cannot go beyond the judgment and decree.”*

8. In view of the detailed discussions made herein-above, there is no merit in the revision petition. The same is consequently dismissed.

January 28, 2015.  
*kadyan*

**[Dr. Bharat Bhushan Parsoon]**  
**Judge**

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