AFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.C.C. No. 198 of 2016

Arun Kumar Mishra S/o Late Shri Dwarka Prasad Mishra, Aged About 71 Years R/o Sadar Bazar, Tehsil & District Bilaspur, Chhattisgarh

---- Applicant

Versus

1. Mahesh Chandra Gupta S/o Late Shri Hukumchand Gupta, Aged About 71 Years R/o Kududand, Bilaspur, Chhattisgarh, Presently Residing At Dharam Prakash Chawl, Mungeli Road, Bilaspur, Chhattisgarh
2. State Of Chhattisgarh, Through Collector, District Bilaspur, Chhattisgarh
3. State Of Chhattisgarh, Through Deputy Registrar (Documents), District Bilaspur, Chhattisgarh

---- Respondents

For the Applicant : Shri Amrito Das, Advocate.
For the Respondent/ State: Shri S.C. Khakhariya, Deputy A.G.

Hon'ble Shri Justice Chandra Bhushan Bajpai
Order on Board

05/04/2016

1. Learned counsel for the Applicant submits that looking to the provisions of Section 152 of the Code of Civil Procedure, 1908 (for short 'the CPC') as there is no limitation prescribed for the correction of clerical or arithmetical mistakes in the order and as per the facts this Court has restored the order dated 7.10.2008 passed by the Board of Revenue, Respondent No.1 need not be noticed and the instant M.C.C. may be heard and the same may be disposed of finally at the motion stage itself.

2. On due consideration, the instant M.C.C is heard finally at the motion stage without noticing to Respondent No.1.

3. Facts in brief required for disposal of the instant M.C.C. are that the present Respondent No.1 had filed an appeal before the Board of Revenue, Chhattisgarh, Bilaspur against the order passed by the Collector of Stamps, Bilaspur dated 29.1.2004. The Appellate Court i.e. Board of Revenue, Chhattisgarh, Bilaspur vide order dated 7.10.2008 allowed the appeal and set aside the order dated 29.1.2004 passed by the Collector of Stamps and directed that the additional stamp fee payable on the amount of Rs.54,46,200/- be paid within a month.

4. Against the said order, the present Applicant had filed a review petition before the Board of Revenue, Bilaspur, Chhattisgarh. Vide order dated 26.2.2009, the Court below allowed the review petition and set aside the order dated 7.10.2008 passed by the Board of Revenue. The Court below directed the Applicant to deposit stamp fee within a month as per admission payable on Rs.8,20,392/-. Against the said order, the present Respondent No.1 had preferred W.P. (227) No. 4360 of 2009 before this Court. This Court vide order dated 20.10.2011 quashed the impugned order dated 26.2.2009 passed by the Board of Revenue and restored the order dated 7.10.2008 passed by the Board of Revenue and directed that Respondent No.3/ present Applicant shall pay stamp duty of Rs.54,46,200/-. On behalf of the Applicant, the present M.C.C has been filed under the provisions of Section 152 of the CPC against the order passed by this Court in W.P.(227) No. 4360 of 2009 dated 20.10.2011 wherein it is submitted that the order of Board of Revenue which is restored by this Court was to deposit the stamp fee additionally within a month on the amount of Rs.54,46,200/-. On the other side, this Court vide order dated 20.10.2011 though restored the said order without any modification and directed Respondent No.3/ present Applicant to pay stamp duty of Rs.54,46,200/-. It is prayed that as the order dated 7.10.2008 is restored without any modification and this Court on account of clerical error used the word “of” instead the word “on” which is apparent from perusal of the order dated 7.10.2008, the instant M.C.C may be allowed and in place of word “of” the word “on” be read in paragraph 14 of the order of this Court.

5. Heard Learned counsel for the Applicant and also perused both the orders passed by the Board of Revenue and the order passed by this Court in W.P.(227) No. 4360 of 2009 dated 20.10.2011.

6. For the relevance provision of Section 152 of the CPC is read as under:

> “**152. Amendment of judgments, decrees or orders.—** Clerical or arithmetical mistakes 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.”

7. From perusal of the said provision, it goes to show that at any time the Court either on its own motion or on an application on behalf of any of the parties, can correct the clerical or arithmetical mistakes in the judgment/ order or error arising therein from any accidental slip or omission.

8. From perusal of the order dated 7.10.2008 which was restored by this Court goes to show that the Board of Revenue directed that within a month additional stamp fee payable be deposited on the amount of Rs.54,46,200/-. On the other side, from perusal of paragraph 14 of the order passed by this Court, it appears that this Court directed Respondent No.3/ present Applicant to pay stamp duty of Rs.54,46,200/-, as the order passed by the Board of Revenue dated 7.10.2008 has not been modified by this Court, the said order in any way goes to show that a clerical mistake of the word "of" has crept in place of the word "on".

9. Consequently, the instant M.C.C is hereby allowed. It is directed that in paragraph 14 of the order passed by this Court in W.P.(227) No. 4360 of 2009 (Mahesh Chandra Gupta vs. State of Chhattisgarh and Ors.) dated 20.10.2011, the last sentence of the said para, i.e., "Respondent No.3 shall pay stamp duty of Rs.54,46,200/-" be now read as "Respondent No.3 shall pay stamp duty on Rs.54,46,200/-".

10. The instant M.C.C. is allowed.

11. No order as to costs.

12. Registry is directed to place a copy of this order in the record of W.P. (227) No. 4360 of 2009 for relevance and further information. It is further directed that this order shall be treated as part of the order passed in W.P. (227) No. 4360 of 2009 dated 20.10.2011.

13. Certified copy of the order as per rules.

Sd/-

Chandra Bhushan Bajpai
Judge

Nimmi