

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 1661 of 2012(O&M)
Date of decision : March 11, 2016

Ajit Kumar

..... Petitioner

Versus

Amir Chand and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Ravinder Kumar Rana, Advocate
for the petitioner.

Mr. Kuldip Sanwal, Advocate
for the respondents.

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?

Amit Rawal, J (oral).

The petitioner-plaintiff is aggrieved against the impugned order dated 27.7.2011 whereby the application seeking correction of the judgment and decree dated 15.3.2002 rendered by the lower appellate court has been dismissed.

Learned counsel appearing on behalf of the petitioner submits that the suit for declaration and permanent injunction viz-a-viz passage shown in red colour in the site plan Ex.P-

1 was filed which was dismissed by the trial court, however, the lower appellate court decreed the same and as per the judgment and decree there was a typographical error for the reason that the decree was only to the extent of passage shown upto point F whereas it should have been point 'E' as per the site plan Ex.P-1, copy of which has been annexed as Annexure P-5 and in this regard, an application has been filed which has erroneously been dismissed, thus, prays for setting aside of the impugned order.

Learned counsel appearing on behalf of the respondents submits that there is no illegality and perversity in the impugned order. In case the petitioner-plaintiff has any grievance, nothing prevented the petitioner to file an appeal or at the best, review, but not an application seeking correction of the judgment and decree under Section 152 CPC.

I have heard learned counsel for the parties and appraised the paper book and of the view that it would be apt to reproduce operative part of the judgment and decree. The same reads thus:-

“The appeal titled as Sohan Lal Vs. Amir chand is partly accepted with no order as to costs and the impugned judgment is partly set aside and party affirmed. In other words, the suit in respect of that part of the suit property which is shown as red in the site plan Ex.P1 and which compromise that part which commence from the place marked as G and H and runs upto point F abutting Geeta Bhawan Buidling, is decreed and the defendants/respondents are ordered to restore the

street within 60 days from today there by removing all hindrances therein except the stair case. The defendants/respondents are also restrained from preventing the plaintiff/appellant from using the said part of the suit property as a street. However, remaining suit of the plaintiff/appellant remains dismissed and the impugned judgment to that extent is hereby dismissed. Decree sheet be prepared. A copy of this judgment be place on the other appeal file titled as Inder Singh Vs. Amir Chand etc. File of this court be consigned to the record, whereas the file of the learned lower court be returned to that learned court alongwith a copy of this judgment. Appeal filed titled as Inder Singh Vs. Amir Chand be also considered to the record room after placing a copy of this judgment on it.”

On going through the findings, I am of the view that there is no illegality and perversity or typographical error in the judgment and decree of the lower appellate court, for the reason that the portion red in the site plan has been specified upto point 'F' and not 'E', though in the site plan 'E' has also been shown in red colour. In such case, the plaintiff had option to move an application for review or recalling of the order or at the best, an appeal but as per his perception moved application under Section 152 CPC which is not correct procedure in law.

I do not find any illegality and perversity in the impugned order and the same cannot be said to have been passed without jurisdiction.

The revision petition is devoid of merits.

Accordingly the same is dismissed.

(AMIT RAWAL)
JUDGE

March 11, 2016
archana