

226.

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

**Civil Revision No.457 of 2015**

Date of decision:21.03.2016

Rajender and others

... Petitioners

versus

Samman adopted son of Shri Itwari

.... Respondent

**CORAM: HON'BLE MR. JUSTICE K. KANNAN**

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Present: Mr. Ashok Kaushik, Advocate,  
for the petitioners.

None for the respondents.

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**K.Kannan, J.** (Oral)

1. A suit for declaration was contested by the defendant as barred under Order 2 Rule 2 CPC in that the plaintiff's claim to title had been decided only for a part in previous proceedings and if he had omitted to include the said item from the very same suit, the suit must be taken as barred under Order 2 Rule 2 CPC. The court has also observed that the weakness in defence, if any, cannot support that the plaintiff must have a decree. Reading the entire judgment, I am clearly of the view that the expression that the suit was decreed was a mistake and the court surely should have directed the suit to be dismissed. Similarly in para 12, the expression that the defendants have failed to lead evidence and the issues are decided

against them is non sequitur to the entire body of discussion found in the earlier paragraphs from 8 to 12.

2. Ideally, even an application for correction under Section 152 CPC shall be done only after notice to the party. Section 152 which provides for a procedure for correction of the amendment of judgments, decrees or orders could be done either of its own motion or on the application of any of the parties. The rule of natural justice must be read into every provision and such procedure must be read into it.

3. The order passed by the court could be an order in error of procedure but there is nothing illegal about the order for interference. The plaintiff may treat the order passed allowing the application for correction as the day when the judgment was pronounced dismissing his suit and shall use the same for a challenge to the higher forum. If there is still a delay, any time taken by the plaintiff for carrying out the correction and the time taken by the petitioner in this civil revision may be considered for exclusion by invoking Section 14 of the Limitation Act.

4. The order passed by the court below that is impugned is sustained but with the observations made above. Civil revision is disposed of.

**(K.KANNAN)**  
**JUDGE**

21.03.2016  
sanjeev