

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.5968 of 2014 (O&M)
Date of decision: 10.2.2016

Residents Welfare Association

.....Petitioner(s)

Versus

Jaipal Singh Saroha

.....Respondent(s)

CORAM:- HON'BLE MR.JUSTICE DARSHAN SINGH

*** * ***

Present: Mr. Shiv Kumar, Advocate for the petitioner.

Mr. Vaibhav Parashar, Advocate for the respondent.

Darshan Singh, J.

The present revision petition has been preferred against the order dated 12.5.2014 vide which the correction has been made in the judgment and decree dated 21.3.2014 by the learned trial Court enhancing the rate of interest from 6% to 10%.

Learned counsel for the petitioner contended that no notice of the application for correction/modification was given to the petitioner before passing the impugned order. He contended that as the rate of interest was being enhanced in the relief clause the rights of the petitioner were likely to be affected, so they should have been offered an opportunity of being heard.

On the other hand, learned counsel for the respondent contended that it was only a typographical mistake which is evident from the reading of the impugned order. So, there was no need to issue notice to the petitioner for correcting a typographical mistake in the judgment and decree.

I have duly considered the aforesaid contentions.

There is no dispute with the proposition of law that the typographical mistakes in the judgments and decrees can be corrected by the Court suo motu or on the application moved by any of the parties. There is also no dispute with the proposition of law that such clerical and typographical mistakes can even be corrected without giving any notice to the opposite party if the nature of the

clerical mistake or error is purely a typographical and is not going to effect the rights of the opposite party. Where the rights of the opposite party are going to be adversely affected due to the correction in the judgment and decree on the application moved by the opposite party, the principle of natural justice requires that the opposite party should be granted an opportunity of being heard. In the instant case, admittedly, the learned trial Court had not issued any notice to the petitioner nor any opportunity of being heard was provided. The correction made by the trial Court enhancing the rate of interest from 6% to 10% on the decretal amount will certainly affect the rights of the petitioner. So, they should have been heard before making the correction in the judgment and decree.

Consequently, the present petition is hereby allowed. The impugned order dated 12.5.2014 is hereby set aside. Learned trial Court is directed to pass the fresh order on the application moved by the respondent for correction of the judgment and decree after affording the opportunity of being heard to the petitioner.

Parties are directed to appear before the learned trial Court on 4.3.2016.

February 10, 2016
ps

(DARSHAN SINGH)
JUDGE