

292

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

**CR-976-2016 (O&M)
Date of decision : 25.07.2016**

Inderjit Kaur

... Petitioner

Versus

Jaswant Singh and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. R.C. Sharma, Advocate
for the petitioner.

Mr. S.P. Soi, Advocate
for respondent Nos.1 and 2.

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 of the impugned order dated 05.11.2015, whereby the application under Section 151 of the Code of Civil Procedure for correcting the figure of ₹ 5,52,000/- whereas it should have ₹ 5,20,000/- as indicated in the plaint, has been dismissed.

Mr. R.C. Sharma, learned counsel appearing on behalf of the petitioner-plaintiff submits that in a suit seeking specific performance, a total sale consideration has been mentioned as ₹ 5,20,000/-, however, due to inadvertence in the examination-in-chief, in the affidavit, it has come as ₹ 5,52,000/-. He has also drawn the attention of this Court to the affidavit at

page No.23 of the paper book, wherein, by correcting the figure, another number of '5' has been inserted and as a result thereof, the amount is being seen as ₹ 5,52,000/- whereas it should have as ₹ 5,20,000/-, thus, urges this Court for setting aside the impugned order, under challenge.

Mr. S.P. Soi, learned counsel appearing on behalf of the respondent Nos.1 & 2 submits that the petitioner-plaintiff subject to lengthy cross-examination also reiterated the stand taken in the examination-in-chief. She stuck to the figure ₹ 5,52,000/-, even, an FIR has been lodged by her, wherein, the same very figure has been mentioned, therefore, a valuable right has accrued in favour of the defendants which cannot be permitted to be deleted and corrected in the manner and mode as has been suggested by the petitioner-plaintiff. He submits that no provisions of Evidence Act or the Code of Civil Procedure permit the correction of the evidence and law of amendment only applies for pleadings, thus, urges this Court for affirming the findings under challenge.

I have heard the learned counsel for the parties and appraised the paper book and of the view that there is a force and merit in the submissions of Mr. R.C. Sharma, for, in fact, the affidavit, in my view, would be beyond the pleadings as the plaint is supported by an affidavit which spelled out the figure of ₹ 5,20,000/-. At the best, the respondent(s)-defendant(s) would have an objection at the final stage that the evidence is beyond the pleadings in case figure is not corrected. In order to rectify such mistake, an application had been moved, in my view, it has been moved in a correct manner and de hors of fact that in cross-examination, the same very figure has been reiterated. The respondent(s)-defendant(s) can always take

the benefit of such contradiction at the time of final stage. Once, the petitioner-plaintiff had been categoric and coherent with regard to the entire sale consideration of ₹ 5,20,000/-, I am of the view that particularly, in the affidavit, the figure of ₹ 5,20,000/- was typed and the same was typed in a correct manner. While making the correction by hand, the figure of ₹ 5,52,000/- came to be introduced. Such error, in my view, is an act of inadvertence which cannot be permitted in perpetuity.

For the foregoing reasons, I am of the view that the trial Court has not taken into consideration the aforementioned fact, therefore, the impugned order, under challenge, is not sustainable and accordingly, the same is hereby set aside subject to the payment of cost of ₹ 5,000/- which shall be condition precedent and the same shall be paid to the learned counsel for the respondent(s)-defendant(s) in the High Court. The petitioner-plaintiff has granted the liberty to file fresh affidavit as sought through application with no other changes in the affidavit.

With the aforesaid observations, the revision petition stands allowed in the aforementioned terms.

25.07.2016
yogesh

(AMIT RAWAL)
JUDGE

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Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**