

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-1480-2014

Date of Decision:- 04.08.2017

Jal Kaur and Others

.....Petitioners

Versus

Surjit Singh and Others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Atul Lakhanpal, Senior Advocate with
Mr. Arjun Lakhanpal, Advocate for the petitioners.

Mr. Subhash Rana, Advocate for
Mr. S.S. Sahu, Advocate for respondents No.1 to 4.

RITU BAHRI, J. (Oral)

Present revision petition under Article 227 of the Constitution of India for setting aside the order dated 15.11.2013, passed by learned Additional Civil Judge (Sr. Division), Ratia, whereby an application, filed by the petitioners, for making correction in judgment, decree and the plaint of the suit No.406-C of 2006, has been dismissed.

Learned counsel for the petitioners has prepared a pedigree table to show that Mukhtiar Singh, Chhota Singh, Jagroop Singh, Balwant Singh, Puran Singh and Jaswant Kaur wife of Balwant Singh.

Vide judgment dated 20.04.2010, the exchange of land between the plaintiffs and defendant No.1 Gurbant Kaur has been upheld

and in paragraph 18 of the said judgment the share of plaintiffs and the respective defendants has been given which is reproduced as under: -

“In view of the above discussion, it can be held that plaintiffs No.1 to 3 and defendant No.4 have become owners in possession of equal share of 1/5th share, plaintiffs No.5 and 6 and defendant No.4 have become owners in possession in equal share of 1/5th share, plaintiffs No.8 to 10 have become owners in possession in equal share of 1/5th share of the land measuring 41 kanal 4 marla comprised in khasra No.186//25(7-11), 187//19(3-11), 20(7-18), 21(7-11), 22(8-12), 188//1(1-13), 2(2-17), 189//5(1-11) of Village Ahorwan and they are also entitled to protect their possession by way of seeking injunction. Accordingly, issues No.1 and 2 are decided in favour of plaintiffs and against the defendants.”

Petitioner has now sought correction that name of Chhota Singh-plaintiff No.4 has not been mentioned in the decree.

Learned counsel for the parties submit that initially on account of oral exchange, a judgment and decree was passed on 12.10.1993 between plaintiffs and the defendants, however, on account of dispute with regard to oral exchange, the present civil suit was filed on 17.05.2006 and this suit has been decreed by accepting the exchange of land between both the plaintiffs and defendants. Further, while decreeing the plaintiffs realized that name of Chhota Singh son of Mehar Singh adopted son of Kala Singh had not been mentioned in the plaint and therefore this mistake occurred in the decree as well. In the oral decree, the name of Chhota Singh was present.

In the application for amendment of the plaint (Annexure P-2) it has been mentioned that even in the oral exchange in Civil suit No.1280 of 1993 was passed where Chhota Singh was the defendant in the said suit. This mistake is now being sought to be corrected by way of

application (Annexure P-2). This application has been dismissed on the ground that under Section 152 CPC only minor corrections in the judgment and decree can be made but through the present application the applicants want to add the share of plaintiff No.4, which was not made in the original plaint as well as the prayer clause and he was set up a new case.

After hearing the learned counsel for the parties, it is not in dispute that initially vide decree dated 12.10.1993, oral exchange was effected between the parties and in that oral exchange Chhota Singh was a defendant and the same oral exchange has now been accepted between the parties, vide decree dated 20.04.2010. Hence, name of plaintiff No.4 should have been mentioned in the plaint as well as in the prayer clause which the plaintiff has sought the correction as the same will not have any adverse right on the defendants as it is a mutual exchange between the heirs of Mehar Singh.

Taking into consideration the facts of the present case, the instant revision petition is hereby allowed. Order dated 15.11.2013 is hereby set aside and the correction in the plaint is being allowed by adding the name of plaintiff No.4-Chhota Singh son of Mehar Singh (adopted son of Kala Singh) in the plaint as well as in the prayer clause.

August 04, 2017
naresh.k

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No