

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

**CR No.3017 of 2017
Date of decision:2.5.2017**

Harpinder Singh

...Petitioner

Versus

Ajaib Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr.Vipin Mahajan, Advocate for the petitioner.

RAMESHWAR SINGH MALIK, J. (Oral)

Present civil revision petition, at the hands of judgment debtor, filed under Article 227 of the Constitution of India, is directed against the order dated 19.7.2016 (Annexure P-10) passed by the learned executing court, whereby application of the decree holder filed under Section 152 of the Code of Civil Procedure ('CPC' for short), seeking correction in Khasra Number of the suit land and share of the defendant-judgment debtor, was allowed.

Heard learned counsel for the petitioner.

It has gone undisputed before this Court that the decree dated 22.2.2008 (Annexure P-3) has attained finality between the parties. It was a suit for possession by way of specific performance of agreement to sell dated 24.12.2002, which came to be decreed in favour of the plaintiff and against the defendant-petitioner. During the pendency of execution application, a factual and typographical error in khasra number of the suit land came to the notice of the decree holder, which necessitated filing the

application for seeking the said correction in khasra number of the suit land and share of the plaintiff. This application has been rightly allowed by the learned executing court, while passing the impugned order.

When learned counsel for the petitioner was confronted with Section 47 CPC to explain as to why such application would not fall within the scope of Section 47 CPC, he had no answer and rightly so, it being a matter of record. The correction sought by the decree holder was only a bonafide clerical mistake which was not going to adversely affect the rights of either of the parties nor it was going to affect the merits of the case.

As noticed hereinabove, decree has already attained finality between the parties. It is neither pleaded nor argued case on behalf of the petitioner-judgment debtor that decree (Annexure P-3) was not executable as it is. Once it was only a formal and factual error, which had gone completely unnoticed by both the parties as well as the learned trial Court and the appellate court, no fault can be found with the impugned order passed by the learned executing court. Having said that, this Court feels no hesitation to conclude that the learned executing court was well within its jurisdiction to pass the impugned order and the same deserves to be upheld.

The only endeavour on the part of the judgment debtor was to delay the execution of decree. Once the decree has attained finality between the parties, learned executing court was duty bound to execute the decree in favour of the decree holder and in most effective manner so as to do complete and substantial justice between the parties. Further, the entire case of the petitioner is based on technicalities alone. It is equally pertinent to note here that technicalities must not weigh with the court, while deciding the *lis* between the parties.

Learned counsel for the petitioner could not point out any kind of prejudice, which might have been caused to the petitioner by passing the impugned order. Under these facts and circumstances of the case, it can be safely concluded that the learned executing court committed no error of law, while passing the impugned order and the same deserves to be upheld, for this reason also.

During the course of hearing, learned counsel for the petitioner could not point out any patent illegality or perversity in the impugned order passed by the learned executing court, which may warrant interference, at the hands of this Court, while exercising its revisional jurisdiction under Article 227 of the Constitution of India. The impugned order has been found based on true facts of the case and it has also been passed, strictly in accordance with law. The impugned order is supported by sound reasons, because of which it deserves to be upheld, for this reason as well.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the instant civil revision petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, with the above-said observations made, the present civil revision petition stands dismissed, however, with no order as to costs.

(RAMESHWAR SINGH MALIK)
JUDGE

2.5.2017
mks

Whether Speaking/reasoned : Yes/No

Whether Reportable : Yes/No