

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.4388 of 2015 (O&M)

Date of Decision: 01.09.2017

Manjit Kaur @ Kaki

... Petitioner

Versus

Gurdev Kaur @ Gurdeep Kaur and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. I.S. Brar, Advocate,
for the petitioner.

Mr. PKS Phoolka, Advocate
for respondent No.1.

ANIL KSHETARPAL, J. (ORAL).

The petitioner is in revision petition under Article 227 of the Constitution of India against the order passed by the Additional District Judge, Bhatinda, deciding an application under Section 152 read with Section 151 CPC, allowing amendment of the judgement and decree in CAD No.77 decided on 15.12.2007. The relevant extract of the order reads as under: –

“6. Originally Bhola Singh was owner of land in question. Manjit Kaur being mother of husband of Gurdev Kaur is also entitled to the land left by Bhola Singh. Gurdev Kaur @ Gurdeep Kaur is wife of Bhola Singh. In para No. 27 of the judgment in CAD No. 77 dated 18.11.2006 decided on 15.12.2007 it was held that appellant as well as Manjit Kaur

are entitled to ½ share each in the estate of Bhola Singh, but in the next sentence it was mentioned that Gurdev Kaur appellant as well as Manjit Kaur are entitled to 1/24 share of land. So judgment dated 15.12.2007 passed by Sh. G K Dhir, the then learned Addl. District Judge, Bathinda passed in CAD No.77 of 18.11.2006 titled as Gurdev Kaur vs Manjit Kaur and others is modified and para No. 27 of said judgment be read as under:-

“ Resultantly the appeal of appellants accepted. After setting a side judgment and decree of the trial court, it is held that appellant as well as Manjit Kaur are entitled to have 1/12 share each in the estate of Bhola Singh qua which this suit is filed. Both appellant and Manjit Kaur declared to be in joint possession of the property left by Bhola Singh. Judgment and decree of the trial court is modified to this extent. As death of Manjit Kaur had taken place as per admitted facts and as such her share to go to her legal heirs as per law. No order as to costs in appeal. However, costs of the suit as awarded by trial court. Decree sheet be drawn up accordingly. Record of trial court be returned and appeal file be consigned to the record room.”

So this application stands allowed. This order be treated as part of CAD No.77 of 18.11.2006 titled as Gurdev Kaur Vs Manjit

Kaur and others decided on 15.12.2007. These papers be attached with the summoned file and be consigned to the record room.

Learned counsel for the petitioner has submitted that such correction is not permissible while exercising powers under Section 152 CPC. He further submits that the judgement and decree had become final.

I have considered the submission of the learned counsel for the petitioner and with his able assistance gone through the record of the case.

Section 152 CPC enables the Court to correct clerical or arithmetical mistakes in the judgements, decrees or orders or errors arising therein from any accidental slip or omission. A reading of the order would clearly show that the Court has only corrected accidental slip. Such accidental slip is permitted to be corrected under Section 152 CPC. Therefore, there is no force in the argument of the learned counsel for the petitioner.

Still further, a reading of the order shows that the rights of the parties were determined after due application of mind. It was only on account of accidental omission, such an error crept in.

In view of the discussion made above, there is no ground to interfere with the impugned order passed by the Court below.

The revision petition is dismissed.

(ANIL KSHETARPAL)
JUDGE

01.09.2017
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No