

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 4588 of 2017
Date of Decision: 17.07.2017

Gurdial Singh @ Hardayal Singh through his LRs ...Petitioner

Vs.

Gurdial Singh through his LRs and Ors. ...Respondents

CORAM:-HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Siddharth Gupta, Advocate,
for the petitioner.

RAJIV NARAIN RAINA, J. (Oral)

The plaintiff-petitioner filed an application for correction of the alleged typographical mistake in para.21 of the judgment and decree of the Civil Judge (Junior Division), Bathinda at Phul dated September 07, 2000, contending that the use of the word 'defendant' in the 3rd line of para.21 should be read as 'plaintiff' to bring it in conformity with the reasoning in the judgment.

The defendant's first appeal before the Lower Appellate Court failed. When the appeal was dismissed, no further appeal was filed by the losing party (defendant) and the orders have attained finality. It is the case of the petitioner that it was during implementation of the decree that the mistake came to light, for which, he filed an application under Section 152 of the CPC for correction of the judgment and decree to the extent indicated above. That application was dismissed in default on September 02, 2014 by the Civil Judge (Junior Division), Phul since neither the applicant nor the respondent appeared when the case was called for hearing several times in the day. Thereafter, the petitioner/plaintiff moved an application for recalling of the order, which request was filed on January 23, 2017.

The prayer in this petition is limited to seek a direction to the trial Court to pass a final order on the application after hearing the parties since the earlier application remained pending for four years till it was dismissed in default. Any delay in the disposal of the application will lead to delay in implementation of the decree.

The request appears to be *bona fide* and genuine to the extent that the petitioner deserves a decision on the application as soon as possible since it involves only the question of recall of the order dismissing the application in default.

Accordingly, Ld. Civil Judge, Junior Division, Phul, will take up the application, and after hearing the parties pass an order in accordance with law on the application within as short a time as is practicable and preferably within a month since the controversy is very limited when the claim is based on an accidental slip and a typographical error. Needless to say, the trial Court will examine the prayers in the suit and match them with the decree to see whether the word 'plaintiff' should be replaced with the word 'defendant' in the judgment and decree in order to make it implementable.

With these observations and directions, the petition is disposed of.

(RAJIV NARAIN RAINA)
JUDGE

17.07.2017
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Whether speaking/reasoned
Whether reportable

Yes.
No