

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

Civil Revision No.1585 of 2016 (O&M)

Date of Decision: January 24, 2018

Gopal Krishan

...Petitioner

Versus

Raj Kumar

...Respondent

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.R.K.Chauhan, Advocate,
for the petitioner.

None for the respondent.

AMIT RAWAL, J. (Oral)

The present revision is directed against the order dated 1.12.2015, whereby the application moved by the petitioner-plaintiff for correction of typographical mistake with regard to khasra number, has been dismissed.

Mr.R.K.Chauhan, learned counsel for the petitioner-plaintiff submits that an agreement to sell dated 21.3.2002 was entered into between the petitioner-plaintiff and defendant Raj Kumar in respect of the following land:-

“The area situated in village Purheeran, Hadbast No.251 Tehsil Hoshiarpur, measuring 0-5 (5 marlas) out of khasra No.51//16/1 (1-11), 52//11 (8-0), 51//15 (4-15) min, 51//15 (3-5), Khata No.103/108-109-110, I am owner in possession according to jamabandi for the year 1997-98 and according to sale deed No.2031, zild No.2140 page No.10 dated 27.6.2001, Hoshiarpur.”

Since the respondent-defendant did not come forward for execution and registration of the sale deed, it necessitated the petitioner-plaintiff to institute the suit on 6.3.2006. In the aforementioned proceedings, the defendant-vendor was proceeded ex-parte and judgment and decree came to be passed. However, the description of the property with regard to Khasra No.51//15 was inadvertently mentioned as “(3-0)”, whereas it should have been “(3-5)” and the same mistake occurred in the decree also. An application moved in this regard has erroneously been dismissed and, thus, urges this Court for setting-aside the impugned order by allowing the application.

Notice of motion in this case was issued on 23.5.2016, but the respondent-defendant was ex-parte before the trial Court as is evident from the presence recorded in the judgment, which reads as under:-

*“Present: Sh.S.R.Dhir, Advocate Counsel for plaintiff.
Defendant ex-parte.”*

Accordingly, I proceed to decide the present revision petition on merits.

It would be apt to reproduce the pleadings in the plaint, which read thus:-

“That the plaintiff has filed the suit seeking possession by way of specific performance of agreement to sell dated 21.03.2002 of the plot measuring 0-5 ml comprised in Khasra nos. 51//16/1 (1-11), 52//11 (8-0), 51//15 (4-15) min, 51//15 (3-0) Khata No.103/108-9-10, Had Bast No.251 and bounded East: other owners, West: Rasta, North: Ram Bhai, South: Usha Rani situated in Mohalla Pur Hiran, Tehsil and District Hoshiarpur and in the alternative suit for recovery of Rs.50,000/- alongwith interest @ 12% per annum till realization.”

On conjoint reading of the pleadings of the plaint and the

agreement to sell, it appears that in the land agreed to be sold along with other khasra numbers, there was an error with regard to the area pertaining to Khasra No.51//15, which should have been “(3-5)” instead of “(3-0)”. The Court below, in my view, did not notice the fact that the agreement had been proved by the petitioner-plaintiff in the ex-parte judgment. Since the Court has rejected the application, the counsel for the petitioner submits that the application for amendment of the plaint could not be filed as it could be filed only during the pendency of the proceedings. Such type of mistake, in my view, was not deliberate but an inadvertence error.

In order to prevent miscarriage of justice and advance justice, in my view, the application moved was bonafide one and was not backed by any malafides. Resultantly, the impugned order is set-aside and the application for correction is allowed and instead of “Khasra No.51//15 (3-0)”, it should be read as “Khasra No.51//15 (3-5)”.

Revision petition stands allowed in the following terms.
Necessary correction in the decree be also carried out.

January 24, 2018
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No