

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.7688 of 2017 (O&M)
Date of Order:15.02.2018

Padam Singh (now deceased) through his LR's and others

..Petitioners

Versus

Surjan (now deceased) through his LR's and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Zorawar Singh Chauhan, Advocate,
for the petitioners.

ANIL KSHETARPAL, J (Oral)

Petitioners are in revision petition against the order dated 28.08.2017, dismissing application under Section 152 of the Code of Civil Procedure for correcting alleged typographical error.

Parties were co-owners and a suit for partition was filed. Initially the Court passed a preliminary decree. Thereafter, proceedings for passing a final decree were initiated and the Court for the purpose of dividing the property, appointed 3 Local Commissioners. After considering the reports, final decree was passed on 28.05.2012.

Decree holders/plaintiffs were allotted western portion of the joint property, whereas Judgment Debtor/defendant was allotted eastern portion. The Judgment Debtor/defendant filed an appeal. In the first appeal, Decree holders/plaintiffs defended the aforesaid decree. The appeal was dismissed. Thereafter, the execution petition was filed.

During the pendency of the execution petition, plaintiffs filed an application under Section 152 of the Code of Civil Procedure claiming

that there is an accidental omission in the decree passed. He has submitted that the Local Commissioners had found that the plaintiffs to be possession in the eastern portion whereas the defendant was found in possession of western portion. However, the Court while passing the decree, held that the plaintiffs are entitled to western portion, whereas the defendant was held entitled to eastern portion.

Learned trial Court while considering the application has specifically recorded that there is no typographical or arithmetical mistake in the decree passed. The Court has noticed the facts in detail and has passed an order. The scope of decision on an application under Section 152 of the Code of Civil Procedure is very limited. Before ordering correction, the Court has to come to a conclusion that the error is either clerical or arithmetical or error arising from any accidental slip or omission. The trial Court has already recorded a finding that the error as sought to be projected is not an error but a conscious decision of the Court.

In view thereof, there is no scope for interference in the order dated 28.08.2017, passed by the learned Civil Judge (Sr. Division), Kurukshetra.

The revision petition is dismissed.

February 15, 2018
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No