

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 266

CR-1129-2017

Date of decision : 22.05.2019

Anant Ram (deceased)
through LRs

..... Petitioners

VERSUS

Mahaan Devi (deceased)
through LRs and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Sanjeev Pandit, Advocate, for the petitioners.

Mr. A. S. Manaise, Advocate,
for respondents No. 1(i) to 1(iii), 2, 3(i) and 3(ii).

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 03.12.2016, passed by the Additional Civil Judge (Senior Division), Dasuya (for short, the Trial Court), through which an application filed by the plaintiff-Anant Ram (since deceased) (now represented by the petitioners), under Sections 152 and 153 CPC, for correction in the decree of the Trial Court dated 19.05.2012 has been dismissed.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that Anant Ram filed a suit seeking therein a declaration to the effect that he and respondent/defendant No. 19-Girdhari Lal be declared joint owners in possession to the extent of 1/5th share in the land detailed and described in the head note of the plaint (for short, the suit property). Through judgment and decree dated 19.05.2012 the aforesaid suit was decreed. The respondents filed an appeal against the aforesaid judgment and decree which was dismissed by the Appellate Court on 19.01.2016. No further appeal was preferred by the respondents. Thereafter, Anant Ram realized that there were two errors in the aforesaid judgment and decree with

regard to the description of the suit property. The land described by Anant Ram as 7//1(8-0) in the head note of his plaint as also mentioned in the judgment and decree was in fact to be described as 60//1(8-0) and that Khasra No. 17(7-18) had been inadvertently mentioned as 1797-18. Accordingly, Anant Ram filed an application under Sections 152 and 153 CPC for correction of the aforesaid errors. In support of his assertions, alongwith his application, he appended the relevant revenue record.

Through the order under challenge the Trial Court accepted the prayer made by Anant Ram qua the land to be described as khasra 17(7-18) but refused to make the correction qua 8 kanals of land which according to Anant Ram was in rectangle No. 60 and not rectangle No. 7. It is in these circumstances that the present petition has been filed.

Learned counsel for the petitioners submits that 8 kanals of land described in the head note of the plaint to be in rectangle No. 7 was and is in fact in rectangle No. 60 and in that regard attention of this Court was drawn to the appended revenue record. It is further submitted that there was and is no land in rectangle No. 7 in Village Khangwai, Tehsil Dasuya, District Hoshiarpur which was or is under the ownership of any of the parties to the litigation.

In spite of service, no one appears on behalf of respondents No. 4, 5, 10(i) to 10(iii), 14 to 17 and 19.

Respondents No. 6 to 9, 10(iv), 11 to 13 and 18 were *ex parte* before the Trial Court. On submission made by learned counsel for the petitioners, their service was ordered to be dispensed with.

Learned counsel for respondents No. 1(i) to 1(iii), 2, 3(i) and 3(ii) does not dispute the afore submissions made by learned counsel for the

petitioners.

In view of the above, the impugned order, to the extent that it does not order correction in the judgment and decree dated 19.05.2012 with regard to description of 8 kanals of land to be in rectangle No. 60 and not in rectangle No. 7, is set aside. Resultantly, 8 kanals of land which is described in the judgment and decree in question as 7//1 (8-0) would now read as 60//1(8-0).

The petition is allowed in the above terms.

22.05.2019
shamsher

[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned	:	Yes	/	No
Whether reportable	:	Yes	/	No