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

**Civil Revision No.6350 of 2017  
Date of Decision: 09.04.2019**

**Suresh Jindal and another**

**.....Petitioners**

**Vs**

**Usha Jindal and others**

**....Respondents**

**CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH***

Present: Mr. Vikas Bahl, Sr. Advocate with  
Mr. Nitish Garg, Advocate and  
Mr. Dhruv Walia, Advocate  
for the petitioners.

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**RAJ MOHAN SINGH, J.**

[1]. Petitioners have preferred this revision petition against the order dated 21.08.2017 passed by the Civil Judge (Jr. Divn.) Ambala, vide which the application filed by petitioners under Sections 151, 152 and 153 CPC for correction in the plaint, judgment and decree was dismissed.

[2]. Brief facts are that the plaintiffs/petitioners filed a suit for declaration to the effect that they were in joint possession to the extent of 1/6<sup>th</sup> share i.e. 107/643<sup>th</sup> share along with the defendants in the land bearing *Khewat/Khatauni* No.38/54, *Khasra* Nos.27//2 (8-0), 3/4 (1-7), 8(7-18), 9(8-0) and 12/1(6-18)

total land measuring 32 *Kanals* 3 *Marlas* situated in the revenue estate of village Kakru, Hadbast No.31, Tehsil & District Ambala as per *jamabandi* for the year 1996-97 on the basis of inheritance of the estate of Sh. Pawan Kumar deceased as held in Civil Appeal titled '*Sukhdev Parshad & others vs. Suresh Jindal & others*', decided on 31.10.2002 by the Addl. District Judge, Patiala with a consequential relief of declaration, declaring the sale deed to be null and void executed by Sukhdev Parshad (deceased) represented by the defendants No.1 and 2 (legal representatives) registered vide writing No.6448 in the office of Sub-Registrar, Ambala in respect of 16 *Kanals* 2 *Marlas* of land, to the extent of share of the plaintiffs i.e. 1/6<sup>th</sup> share in 32 *Kanals* 3 *Marlas* of land. Plaintiffs also sought further declaration regarding correction of *Jamabandi* for the year 1996-97 and subsequent revenue records.

[3]. Inadvertently in the plaint, *Khasra* No.27//2(8-0) was mentioned in place of *Khasra* No.21//2(8-0). The other *khasra* numbers remained the same and total land i.e. 32 *Kanals* 3 *Marlas* also remained the same. All the sons of Chajju Ram including Pawan Kumar jointly purchased 32 *Kanals* 3 *Marlas* of land vide two separate sale deeds in equal shares. Sale deed No.2602 dated 07.07.1982 was executed in respect of 16 *Kanals* 3 *Marlas* of land from one Gajinder Kumar son of Nand

Lal. The  *khasra*  numbers mentioned in the aforesaid sale deed are 21//2(8-0), 3/4(1-7), 8(7-18), 9(8-0), 12/1(6-18) i.e. total land measuring 32  *Kanals*  3  *Marlas* . Out of the aforesaid land,  *Khasra*  Nos.21//3/4(1-7), 8(7-18) and 21/12/1 (6-18) from the total land 16  *Kanals*  3  *Marlas*  were sold to Sukhdev Parsad, Pawan Kumar, Sham Bihari and Pardeep Kumar for a consideration of Rs.24,500/-.

[4]. Perusal of the record would show that the sale deed No.2603 dated 07.07.1982 was executed for 16  *Kanals*  3  *Marlas*  of land in respect of  *Khasra*  Nos.21//2(8-0) and 21//9(8-0) for a total sale consideration of Rs.24,500/- in favour of Sukhdev Parsad, Pawan Kumar, Sham Bihari and Pardeep Kumar. After having purchased the aforesaid land, Sukhdev Parsad sold 16  *Kanals*  2  *Marlas*  of land in favour of Gurbax Singh/defendant No.3 vide sale deed dated 08.02.2002 for consideration. Recital of the sale would show that  *Khasra*  Nos.21//3/4 and 8 were sold in favour of Gurbax Singh for consideration of Rs.4,25,000/-. In the aforesaid sale deed also the total land was shown to be 32  *Kanals*  3  *Marlas*  comprised in  *khasra*  numbers as shown in preceding paras out of which land measuring 16  *Kanals*  2  *Marlas*  was sold.

[5]. In the written statement filed by defendant No.3/respondents No.3, the factum of land comprised in  *Khasra*

No.21//2(8-0) has not been denied, rather evasive reply was filed. The factum of purchase of 16 *Kanals 2 Marlas* of land by defendant No.3 from Sukhdev Parsad through registered sale deed No.6448 dated 08.02.2002 for a consideration of Rs.4,25,000/- was pleaded in the written statement. In the aforesaid sale deed, 16 *Kanals 2 Marlas* of land was purchased by defendant No.2 from total land measuring 32 *Kanals 3 Marlas* in which *Khasra* No.21//2(8-0) was one of the *khasra* number. Description of *Khasra* No.21//2(8-0) was never in dispute in all the three sale deeds as mentioned above.

[6]. The sale deeds were executed on the basis of jamabandi for the year 1996-97. As per the said *jamabandi* Sukhdev Parsad, Pardeep Kumar and Sham Bihari were shown to be owner of land measuring 32 *Kanals 3 Marlas* comprised in *Khasra* No.21//2(8-0), 3/4(1-7), 8(7-18), 9(8-0), 12/1 (6-18). *Khasra* No.21//2(8-0) fully coincides with the *jamabandi* on the basis of which sale deeds were executed.

[7]. Even as per mutation entered in the names of Sukhdev Parsad, Pawan Kumar, Sham Bihari and Pardeep Kumar on the basis of sale deed Nos.2603 and 2602 dated 07.07.1982, *Khasra* Nos.21//2(8-0), 9(8-0) were shown in the sanctioned mutation No.218 and *Khasra* Nos.21//3/4(1-7), 8(7-8), 12/1 (6-18) were shown in the mutation No.217 which was

sanctioned in respect of land comprised in sale deed No.2603 dated 07.07.1982.

[8]. On the basis of error/clerical error appearing in the plaint in respect of *Khasra* No.21//2(8-0), *Khasra* No.27//2(8-0) was wrongly mentioned. The error crept in the plaint and resultantly the suit of the plaintiffs was decreed by the trial Court vide judgment and decree dated 03.05.2014. The operative part of the judgment and decree reads as under:-

*“14. As a sequel to my discussion above, the suit of the plaintiff is hereby decreed to the extent of 1/6<sup>th</sup> share i.e. 107//643<sup>th</sup> share along with the defendants in the land bearing khewat/khatuni No.38/54, Khasra nos.27//2(8-0), 3/4(1-7), 8(7-18), 9(8-0), 12/1(6-18), total land measuring 32 Kanals 3 Marlas, situated in the revenue estate of village Kakru, H.B. No.31, Tehsil & Distt. Ambala as per Jamabandi for the year 1996-97 on the basis of inheritance of the estate of Sh. Pawan Kumar son of Sh. Chajju Ram deceased as held in civil appeal titled as Sukhdev Parsad & others vs. Suresh Jindal & others decided on 31.10.2002 by the court of Sh. A.K. Singal, Addl. Distt. Judge, Patiala with a consequential relief of declaration of nullity of the sale deed executed by Sh. Sukhdev Parsad now deceased represented by defendant no.1 & 2 being his Lrs on 8.2.2002 registered vide perlekh No.6448 in the office of Sub Registrar, Ambala for 16 Kanals 2 Marlas of land, to the extent of share of the plaintiffs i.e. 1/6<sup>th</sup> share in 32 Kanals 3 Marlas of land referred to above and for further declaration of correction of Jamabandi for the year 1996-97 and subsequent jamabandi which is in the process of preparation so as to incorporate the name of the plaintiffs in column of ownership to the extent of 1/6<sup>th</sup> share passed in favour of the plaintiffs. Decree sheet be*

*prepared accordingly and file be consigned to record room after due complaine.”*

[9]. On coming to know about the clerical/typographical omission in mentioning the *Khasra* No.No.27//2(8-0) in place of *Khasra* No.21//2(8-0), the plaintiffs/petitioners filed an application under Sections 151, 152 and 153 CPC for necessary correction of the typographical mistake in the plaint, judgment and decree.

[10]. The said application was contested by defendant No.3 Gurbax Singh only. There were eight defendants in the suit. Defendants No.1, 2 and 4 to 8 were proceeded against ex parte. The suit as well as the application was contested by defendant No.3/respondent No.3 alone.

[11]. The trial Court vide the impugned order dismissed the application primarily on the ground that the Court has no power to amend the plaint after passing of the judgment and decree and there was no clerical or arithmetic mistake in the judgment and decree.

[12]. Notice of motion was issued on 18.09.2017. Thereafter only respondent No.3 appeared as contesting respondent. Since other respondents were proceeded against ex parte, therefore, notices were issued to the legal representatives of deceased respondent No.3. On 19.12.2018 service was taken

to be complete and the case was adjourned for arguments.

[13]. Legal representatives of deceased respondent No.3 were duly serviced with the process of the Court. However, none appeared on their behalf despite service.

[14]. This Court proceeded to consider the submissions made by learned Senior counsel for the petitioners.

[15]. Learned Senior counsel for the petitioners by relying upon **Shri Jai Singh vs. Sardar Singh and others, 2009(5) R.C.R. (Civil) 723; Gulzara Singh and others vs. Devinder Singh and others, 2004(3) PLR 330; Pritam Singh vs. P. Didar Singh and another, 1976 RLR 586 DB; Peethani Suryanarayana & Anr. vs. Repaka Venkata Ramana Kishore & Ors., 2009(2) R.C.R. (Civi) 521 and Saudagar Singh vs. Amir Singh & Ors., 2009(4) R.C.R. (Civil) 638** contended that application for correction of description of the property can be entertained in view of facts and circumstances of the case.

[16]. In **Shri Jai Singh's** case (supra), the suit was decreed by the lower Appellate Court and thereafter application came to be filed for correction of description of the property which was erroneously mentioned due to typographical error in the plaint and the same was so recorded in the judgment and decree. Since there was no dispute with regard to the identity of the

property, therefore, by relying upon Gulazara Singh and others' case (supra), the Single Bench of this Court allowed correction of the error in the judgment and decree. In the aforesaid case, Khasra No.17/2 was inadvertently mentioned as Khasra No.19/2. The description of the property was mentioned due to some mistake as Khasra No.19/2 was typed as Khasra No.17/2. In view of facts and circumstances of the said case which are akin to the present case, the correction was allowed and the error mentioned in the description of the plaint, judgment and decree was rectified/corrected.

[17]. In **Gulzara Singh and others's** case (supra) the mistake in the plaint and the decree which had occasioned from an accidental slip or omission at the time of drafting the plaint on the basis of incorrect *jamabandi* was corrected and it was held that the mistake can be corrected by the Court either of its own motion or on the application of any of the parties.

[18]. In **Pritam Singh's** case (supra) it was held that the Court is empowered to amend the clerical errors in the decree, even if, it may have first occurred in the pleadings and it is not necessary to first amend the pleadings in such a case. After relying upon past precedents of different Courts, the Court held that the mistake in the decree could be corrected by the Court under Section 152 CPC, even though it may have occurred on

account of mistake in the pleadings. In all Section 152 CPC does not restrict the powers of the Court to correct the clerical or exceptional errors made by the Court itself and the powers under Sections 151, 152 and 153 CPC have been vested in the Court to advance the cause of justice and to avoid the multiplicity of the proceedings. Any other view would be in negation to the purpose of Section 152 CPC. The mistake in the decree can be corrected by the Court under Section 152 CPC even though it may have been copied from the pleadings of the parties itself and it is not necessary for the correction of the decree to first amend the pleadings of the plaintiff.

[19]. In **Peethani Suryanarayana & Anr.'s** case (supra), the Court was dealing with the proposition wherein it was held that the amendment in the pleadings can be allowed, even after passing of the decree, if no prejudice is going to be caused to the parties. Wrong description of the property in the plaint can be corrected even after passing of final decree. In the cited case, Town Survey No.462 was mistakenly mentioned in the preliminary decree and also in final decree in place of Town Survey No.463. The same was the result of typographical mistake. The Hon'ble Apex Court held that the correction can be ordered as it was not the case of the parties that Town Survey No.462 was the joint family property or the subject matter of the

suit. The factual error was liable to be corrected. Missed description of the property in the plaint and the decree can be allowed under the provision of Section 152 CPC. The mistake could be either of the Court or it could be the result of mistake inadvertently committed in the pleadings that gets transported to all other subsequent proceedings. The party applying for correction does not really substitute different property or new property other than the subject matter of the suit.

[20]. In **Union of India vs. Swaran Singh, 1996(3) RCR (Civil) 670**, the Court was dealing with Land Acquisition Act No.68 of 1984 in which it was held that the Amendment Act No.68 of 1984 was applicable on the pending proceedings before the Reference Court as on that date i.e. the day on which the Act came into force on 24.09.1984 and the claimants would be held entitled to the enhanced solatium and interest. It was held that the Reference Court or High Court has no power to entertain any application under Section 151/152 CPC to correct any decree which has become final or to independently pass an award enhancing the solatium and interest as amended by Act No.68 of 1984. Such a course was held to be a nullity. The order being a nullity can be challenged at any stage. In the said case, applications under Sections 151 and 152 CPC were filed in the High Court for award of enhanced solatium and interest under

Section 23(2) and proviso to Section 28 of the Land Acquisition Act and in view of amendment vide Act No.68 of 1984. The High Court allowed the applications. In execution, the Executing Court dismissed the same, but in revision, the High Court allowed the prayer and directed execution of enhanced solatium and interest. In Special Leave Petition, the Hon'ble Apex Court held that the award of solatium and interest would be granted on enhancement of compensation when the Court finds that the compensation was not correct.

[21]. In view of land acquisition proceedings, the Land Acquisition Amendment Act and nature of controversy, it was held that the Reference Court or the High Court has no power to entertain the application under Sections 151 and 152 CPC to correct the decree which has attained finality. In those cases there was no such dispute with regard to the description of the land. It was only in the context of entitlement for compensation on the basis of Amendment Act. Mistakenly described description of the property can always be corrected by the Court either *suo moto* or on the application filed by the parties, therefore, the ratio of **Union of India vs. Swaran Singh's** case (supra) is distinguishable and has no application in the present controversy.

[22]. For the reasons recorded hereinabove, I deem it

appropriate to set aside the impugned order dated 21.08.2017 passed by the Civil Judge (Jr. Divn.) Ambala. This revision petition is thus allowed. The trial Court is directed to carry out the necessary correction in the plaint, judgment and decree.

April 09, 2019

*Atik*

**(RAJ MOHAN SINGH)  
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No