

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

**CR No.7573 of 2019
DATE OF DECISION:28.11.2019**

Rajinder Singh

...Petitioner/Plaintiff/Decree Holder.

Vs.

Amrik Singh and another

.....Respondents/Defendants/Judgment Debtors.

CORAM:- HON'BLE MR.JUSTICE LALIT BATRA

Present: Mr. Avnish Mittal, Advocate
 for the Petitioner.

LALIT BATRA, J. (Oral)

This civil revision has been moved by petitioner-Rajinder Singh impugning the legality of order dated 26.09.2019 (Annexure P-5), rendered by Lower Appellate Court, in terms of which, application under Section 152 CPC for correction of decree sheet dated 09.10.2013 prepared in pursuant to judgment and decree dated 09.10.2013, has been dismissed.

2. I have heard learned counsel for the petitioner/plaintiff and have carefully gone through the contents of petition, impugned order as well as record of the case.

3. Under Article 227 of the Constitution of India, the powers can always be exercised to correct an error in the order of the trial Court which causes injustice to a party. In the present case, Lower Appellate Court while dismissing application of petitioner moved under Section

152 CPC for correction of decree sheet dated 09.10.2013, has not interpreted the provisions of Section 152 CPC in right perspective as in terms of said provisions, clerical or arithmetical mistakes in judgments, decrees or orders or errors arising therein from any accidental slip or omission may at any time be corrected by the Court either of its own motion or on the application of any of the parties.

4. A bare perusal of record especially impugned order dated 09.10.2013 clearly reveals that though trial Court had dismissed the claim of petitioner/plaintiff, vide judgment and decree dated 25.11.2010, however, in appeal preferred by petitioner/appellant, his claim was allowed by Lower Appellate Court, vide judgment and decree dated 09.10.2013, in terms of which, judgment and decree dated 25.11.2010 rendered by trial Court, was set aside and, thus, suit of the appellant/plaintiff was decreed with costs. It is pertinent to mention here that though in the judgment and decree dated 09.10.2013 rendered by Lower Appellate Court, above said facts were duly narrated, however, while preparing decree sheet in pursuant to said judgment and decree, clerical/typographical mistake has crept in the manner that instead of recording "suit of the appellant is decreed with costs", it has been narrated therein that "the appeal in question is decreed with costs". It is pertinent to mention here that qua correction of above said mistake occurring in the decree sheet, previously petitioner had filed application but that application was dismissed by the Lower Appellate Court, vide

order dated 05.09.2014 (Annexure P-8), solely for the reason that at that particular time Regular Second Appeal impugning the legality of judgment and decree dated 09.10.2013, as detailed above, was pending adjudication before the High Court. However, later on Regular Second Appeal No.238 of 2014 preferred by respondents/defendants was dismissed by the High Court, vide judgment dated 24.10.2016 (Annexure P-2) and as such judgment and decree dated 09.10.2013 rendered by Lower Appellate Court was upheld. Thereafter, petitioner had filed application dated 05.03.2018 (Annexure P-3) under Section 152 CPC for correction of decree sheet dated 09.10.2013, but the said application has been dismissed by the Lower Appellate Court, vide impugned order dated 26.09.2019 (Annexure P-5), solely for the reason that on previous occasion application under Section 152 CPC has already been dismissed by the Court and as such subsequent application is not maintainable. However, in view of above discussed factual position, approach of Lower Appellate Court while rejecting the application of petitioner, vide impugned order dated 26.09.2019, cannot be said to be in consonance with provisions of Section 152 CPC, as on the previous occasion, Regular Second Appeal, as detailed above, was pending adjudication and, thus, vide order dated 05.09.2014 (Annexure P-8), previous application moved under Section 152 CPC for correction of decree sheet dated 09.10.2013, was not entertained. However, once judgment and decree dated 09.10.2013 has attained finality, there should not have been any

hitch on the part of Lower Appellate Court to correct the clerical/typographical mistake occurring in the decree sheet dated 09.10.2013 as Section 152 CPC is wide enough to entertain said aspect and as such impugned order dated 26.09.2019 cannot be sustained in the eyes of law.

5. As a sequel to above discussion, instant civil revision is allowed. Impugned order dated 26.09.2019 rendered by Lower Appellate Court, is set aside. Resultantly, Lower Appellate Court is directed to deal with application dated 05.03.2018 moved by petitioner under Section 152 CPC for correction of decree sheet dated 09.10.2013 in accordance with law especially in view of the fact that provisions of Section 152 CPC prescribes for correction of clerical/typographical mistakes occurring in judgments, decrees or errors arising therein from any accidental slip or omission.

6. Disposed of accordingly.

(LALIT BATRA)
JUDGE

28.11.2019

rimpal

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