

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

CR No. 5721 of 2015

Date of Decision: 24.01.2020

Hakam Singh and another

....Petitioners

Versus

Gurtej Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Atul Goyal, Advocate
for the petitioners.

Mr. S.C.Pathela, Advocate
for the respondents.

ANIL KSHETARPAL, J. (ORAL)

The present revision petition has been filed against order dated 30.04.2015 passed by Ld. Additional District Judge, Sri Muktsar Sahib dismissing application under Sections 152 and 153 CPC for correction of arithmetical mistake.

The petitioners were defendants in the suit. They had filed first appeal which was decided vide judgment dated 10.01.2012. The petitioners have prayed that while making calculation of the remaining land in the hands of Banta Singh, the Court has committed arithmetical error by referring the same to be 7 kanal, 6 ½ marlas of land in place of 8 kanal 13 ½ marlas. Learned counsel for the petitioners has drawn attention of the Court to para No. 21 of the judgment passed by the First Appellate Court, which reads as under:-

“These findings arrived at by the trial Court, are not correctly arrived at. It is admitted case of the parties that Banta Singh was owner of ½ share in 101 Kanals 07 Marlas i.e. 50 Kanals 13 ½ Marlas. Moreover, from the Jamabandi

Ex. P8, for the year 1994-95 this fact finds full support. Admittedly, Banta Singh sold away 10 Kanals of land vide sale deed dated 26.02.91 Ex. P4 to Smt. Naseeb Kaur, and Smt. Balraj Kaur, in equal shares, and another 4 Kanals vide sale deed dated 3.12.87 Ex. P5 to Sukhmander Kaur @ Naseeb Kaur and further sold 28 Kanals of land vide mutation no. Ex. P16. So in this way Banta Singh had sold away 42 Kanals of land, meaning thereby, Banta Singh was still owner of 07 Kanals 6 ½ Marlas of land. Admittedly both Naseeb Kaur and Balraj Kaur have sold land, measuring 10 Kanals, through registered sale deed dated 12.03.97 Ex. P6 to Gurtej Singh, Thana Singh sons of Bhola Singh plaintiffs, and possession was delivered to them. Whereas both Thana Singh and Gurtej Singh were owners in possession of land, measuring 33 Kanals 16 Marlas, prior to the purchase of the land 10 Kanals from Naseeb Kaur, and Balraj Kaur. In this way plaintiffs/respondents No. 1 and 2 became owners, in possession of land, measuring 43 Kanals 16 Marlas in equal shares.”

The aforesaid error has reoccurred in para No. 22 as well as para No. 23.

Learned Appellate Court chose to dismiss the application on the ground that the error is neither clerical nor arithmetical.

In the considered view of this Court, Ld. Additional District Judge has overlooked the apparent arithmetical error in the judgment in para No. 21 which has been extracted above. The Court had found that Banta Singh was owner of half share in the land measuring 101 kanal, 7 marlas. Thus, Banta Singh was owner to the extent of 50 kanal and 13 ½ marlas of land. Banta Singh had sold 10 kanal land to Smt. Naseeb Kaur and Smt. Balraj Kaur. Another 4 kanal of land was sold to Sukhmander Kaur@

Naseeb Kaur. Further, land measuring 28 kanal was also sold. Thus, Banta Singh had sold 42 kanal of land. If we deduct 42 kanal land from 50 kanal and 13 ½ marlas land originally owned by Banta Singh, the remaining land in the hands of Banta Singh come to 8 kanal and 13 ½ marlas and not 7 kanal and 6 ½ marlas. This is clearly an arithmetical error in the calculation. Thus, the Ld. Additional District Judge should have allowed the application.

Keeping in view the aforesaid facts, the application for correction is allowed. However, since the judgment has to be corrected accordingly, therefore, the matter is remitted back to the Ld. Additional District Judge, Sri Muktsar Sahib to carry out the consequential correction and issue fresh certified copy.

Petition allowed.

Parties through their counsel are requested to appear before the Court of Ld. Additional District Judge, Sri Muktsar Sahib on 10.02.2020.

(ANIL KSHETARPAL)
JUDGE

24.01.2020
Maninder

Whether speaking/reasoned : Yes
Whether reportable : No