

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

CR No.7020 of 2018 (O&M)
Date of decision: 27th February, 2020

Dharmender

... Petitioner

Versus

Yashpal

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. P.R. Yadav, Advocate for the petitioner.

Mr. Manish Mehta, Advocate for the respondent.

FATEH DEEP SINGH, J.

In a suit for specific performance of agreement to sell preferred by the present revisionist Dharmender (then plaintiff) against present respondent Yashpal (then defendant), an application was moved by the revisionist under Order VI Rule 17 CPC seeking to amend the date of the agreement to sell from 10.09.2013 to 11.09.2013 on account of being a typographical error. It was after response of the defendants was sought, who opposed it, the Court of learned Civil Judge (Senior Division), Narnaul through impugned findings dated 17.09.2018 dismissed the application. The same is subject matter of challenge before this Court.

Upon hearing Mr. P.R. Yadav, Advocate for the petitioner; Mr. Manish Mehta, Advocate for the respondent and perusing the records of the case.

The parties are disputing over an agreement to sell which in fact was entered on 11.09.2013 but due to mistake of the plaintiff same has been denoted as 10.09.2013. The arguments of learned counsel for the petitioner Mr. P. R. Yadav, Advocate that being an error in view of the law laid down in '**Santokh Singh and others vs. Gurmeet Singh**' 2015(4) RCR (Civil) 294; '**Rajeev Sharma and others vs. M/s Vivek Prints**' 2017(5) RCR (Civil) 59; '**Gurcharan Singh vs. Sukhdev Kumar**' 2017(5) RCR (Civil) 376; '**M/s Hi. Sheet Industries vs. Litelon Limited**' 2007(1) RCR (Civil) 324; and '**Varun Pahwa vs. Mrs. Renu Chaudhary**' 2019(2) RCR (Civil) 383, since it is not going to alter the nature of the suit and the relief, it ought to have been allowed. But the same is opposed tooth and nail by Mr. Manish Mehta, Advocate for the respondent claiming that most of the plaintiff witnesses have been examined and cross-examined and if amendment is allowed at this stage it would change the very nature of the suit.

Going through the submissions of the two sides, it is only simplicitor an error in the date i.e. 10th and 11th. To the very specific query of the Court, learned counsel for the respondent could not convince what material prejudice would be caused to any of the sides if the same is allowed to be rectified. An apparent look at the pleadings shows that it

was on the basis of agreement to sell dated 11.09.2013 executed between the parties the suit had come about, in which inadvertently instead of 11.09.2013, 10.09.2013 has been mentioned.

Being a pure inadvertent typographical clerical error and in view of the catena of case law that on account of inadvertent mistake on the part of a party or its counsel while drafting, should not be refused to be corrected as the rules of procedure are handmaid of justice and cannot defeat the substantive rights of the parties. The Court of learned Civil Judge (Senior Division), Narnaul has fallen into an error by holding that such a prayer cannot be allowed and amendment made as the very sole purpose of dispensation of justice is to advance the cause and not to have a constricted narrow approach. In the light of the same, the petitioner ought to have been allowed his relief made in the application and no prejudice is likely to be caused to the other side. The impugned order being wholly illegal and perverse is set aside by way of acceptance of the instant revision petition.

(FATEH DEEP SINGH)
JUDGE

February 27, 2020

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No