

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

CR-7554-2019

Decided on : 07.01.2020

Sukhwinder Kaur & ors.

..... Petitioners

Versus

Avtar Singh

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Rakesh Sobti, Advocate
for the petitioners.

Mr. Vivek Salathia, Advocate
for the respondent.

Manjari Nehru Kaul, J.

The instant revision petition has been filed impugning the order dated 20.11.2019 (Annexure P-6) passed by Addl. Civil Judge (Sr. Divn.) Amritsar in Execution No.988/2016 whereby the application filed by the respondent under Section 152 for amendment in the judgment dated 25.11.2014 has been allowed during the execution proceedings.

The decree-holder/respondent in an application moved before the Executing Court contended that his suit for specific performance of the agreement to sell dated 10.11.2009 was decreed by the trial court vide judgment dated 25.11.2014 wherein the judgment-debtors were directed to execute the sale deed in his favour. During the pendency of the suit, defendant No.2 – Gurinderpal Singh died and an application was moved by defendant No.1 – Sukhwinder Kaur on 24.04.2014 for impleading his LRs, which was allowed and the amended memo of parties was thereafter filed on

13.08.2014. However, in the judgment dated 25.11.2014 passed by the trial court in civil suit No.376/2011, name of defendant No.2 – Gurinderpal Singh, without any reference to the LRs was mentioned due to a clerical mistake despite the fact that his LRs had already been impleaded as parties vide order dated 13.08.2014 and in the amended memo of parties, the name of Gurinderpal Singh was deleted. Learned counsel for the petitioner urged that the rectification in the array of parties could not have been ordered by the Executing Court and in fact such a rectification could only have been made by the Court, which passed the decree. Further, while referring to the provisions of Section 152 CPC it was contended that in case of any clerical or arithmetical mistakes in a judgment, decree or order or any error arising therein due to any omission or accidental slip, the same could be corrected only by the Court, which passed the decree.

On the other hand, it was urged by the respondent-decree-holder that since the mistake in the said judgment was clerical in nature, the same deserved to be rectified as per the provisions of Section 152 CPC.

Be that as it may, this Court is inclined to uphold the impugned order so that no injustice is caused to the decree-holder. It may be noticed that the error had crept in due to inadvertence of the trial court, for no fault of the decree-holder. From the record, it is clear that the LRs were brought on record of the case by the trial court and the name of Gurinderpal Singh was deleted from the array of parties, and this fact was missed by the trial court while passing the decree on 25.11.2014. In the circumstances, the order of the Executing Court is sustained in the interest of justice.

Accordingly, the present petition stands dismissed.

07.01.2020
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(MANJARI NEHRU KAUL)
JUDGE

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