

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

CR-1333-2021(O&M)

Date of decision: 19.07.2021

The Punjab Wakf Board, Chandigarh

.....Petitioner

Versus

Bakshish Singh

.....Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Ajit Singh Sodhi, Advocate, for the petitioner

ANIL KSHETARPAL, J. (ORAL)

The hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

The decree holder-plaintiff has filed the present revision petition under Article 227 of the Constitution of India, assailing the correctness of the order dated 22.10.2018 passed by the learned Additional Civil Judge, (Senior Division), Ferozepur. The suit filed by the Punjab Wakf Board for possession of the property was decreed vide a judgment and decree dated 07.01.2016. Thereafter, the plaintiff upon realizing a printing mistake in the description of the land filed an application for permission to amend the pleadings as well as the judgment and decree. It was pointed out that in place of rectangle no.13, due to a printing error, the typist has printed rectangle no.12, although khasra number, area and the village remains the same. The learned trial court dismissed the application on the ground that such amendment cannot be allowed because the entire evidence had been led on the basis of the aforesaid pleadings.

When the application in question came to be decided, the defendant-respondent was proceeded ex parte. Section 152 CPC enables the court to correct errors arising from clerical or arthmatic mistakes in judgments, decrees or orders or errors arising therein from any accidental slip or omission. Such error can be corrected by the court at any time either on its own motion or on an application of any of the parties. Such error can be corrected even when the suit has been decided. Such provision has been made in order to do substantive justice in the dispute. Once the court comes to a conclusion that the clerical or arthmatic mistake has crept in due to any accidental slip or omission, the same can be permitted to be corrected not only in the pleadings but also in the evidence as well as in the judgment and the decree passed. Section 153 CPC further enables the court to amend any defect or error in any proceedings in a suit.

Keeping in view the aforesaid facts, learned trial court was required to record the finding as to whether such error was result of clerical or arthmatic mistake or not. However, it is apparent from the reading of the impugned order that the learned trial court has failed to appreciate the scope of an application filed under Section 152 CPC in a correct perspective.

Since, the respondent-judgment debtor was proceeded ex-parte, therefore, the impugned order is set aside with a direction to the learned trial court to re-decide the application in accordance with law, after issuing notice to the judgment debtor.

Since, this order has been passed without issuing any formal notice to the judgment debtor-respondent, therefore, he shall be at liberty to file an application for recall of the order, if so advised.

The petitioner through its counsel is directed to appear before the learned trial court on 05.08.2021.

Disposed of.

All the pending miscellaneous applications, if any, also stand disposed of.

19.07.2021
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No