

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 5931 of 2017

Date of Decision: 13.07.2022

Gurdial Singh alias Hardayal Singh (Since Deceased) through his legal representatives

... Petitioner(s)

Versus

Gurdial Singh (Since Deceased) through his legal representatives and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. J.K.Singla, Advocate
for the petitioner(s).

Mrs. Bhupinder Kaur, Advocate
for the respondents

Anil Kshetarpal, J.

1. The facts of this case clearly show that the trial Court has failed to do substantive justice. In fact, all these proceedings have led to travesty of justice. The plaintiff's (petitioner's) suit for grant of decree of declaration was decreed on 07.09.2000. Para 21 i.e. the penultimate para of the judgment reads as under:-

“21. In view of my findings on the above issues suit of the plaintiff succeeds and the same is hereby decreed for declaration to the effect that the defendant is in possession of 89 kanals 5 marlas as fully detailed in the head note of the plaint and the partition proceedings resultant upon order dated 4.2.92 in File No. 29/R dated 8.4.1991 in Bhola Singh Vs.

Maghar Singh etc. decided by A.C. Ist Grade, Rampura Phul is null and void and not binding upon the rights of the plaintiff. Defendants are further permanently restrained from interfering into possession of the plaintiff over the suit land and from dispossessing the plaintiff from the suit land without in due course of law. Decree sheet be prepared and file be consigned to the record room”.

2. On reading of the complete judgment, it is evident that the plaintiff was found to be the owner in possession of the land measuring 89 kanals and 5 marlas.

3. The petitioner’s application for rectifying a typographical error in para 21 of the judgment was dismissed on account of his default in appearance on 02.09.2014. His application for restoration of the application for correction has been dismissed on the ground that the judgment and decree has been affirmed in appeal and application for restoration has been filed beyond the prescribed time. The Court found that since the judgment and decree passed on 07.09.2000 has been merged with the judgment of the First Appellate Court, therefore, the application is not maintainable.

4. Section 151, 152 and 153 of the Code of Civil Procedure, 1908 (hereinafter referred to as “the CPC”) enable the Court to amend judgments, decrees or orders in the interest of justice. Section 152 CPC specifically enables the Court to amend such errors. The power under Section 152 CPC can be exercised at any time. The Court can correct the clerical/arithmetical mistakes arising from any accidental slip, on its own motion or on an application filed by any of the parties. It is evident that the trial Court has

taken a myopic view of the matter. It is apparent that in the very first

sentence of para 21 of the judgment, extracted above, while decreeing the suit filed by the plaintiff, the Court has wrongly used the word “the defendant” in place of the word “the plaintiff”. The aforesaid mistake has arisen from a typographical error. It was the duty of the Court to correct the same on its own motion once this fact came to its notice. Section 152 CPC mandates the Court to correct such errors once it comes or is brought to its notice.

5. Keeping in view the aforesaid facts, the present revision petition is allowed and the order, under challenge, is set aside. The trial Court is directed to correct the typographical error and prepare the decree afresh.

(Anil Kshetarpal)
Judge

July 13, 2022
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No