

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

108

CR-1770-2019(O&M)
Date of Order: 02.04.2022

DEVI CHAND (SINCE DECEASED) THROUGH HIS LRS

..Petitioner

Versus

ASHOK KUMAR AND ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. C.B. Goel, Advocate
Mr. Rajinder Goel, Advocate
for the petitioner.

None for respondent No.3.

Mr. Pawan Attri, Advocate
for respondent No.4.

ANIL KSHETARPAL, J(Oral)

The petitioners' application, pending first appeal, for permission to amend the plaint has been dismissed. Their suit for grant of decree of declaration with joint possession and permanent injunction was dismissed by the trial Court on 28.04.2014. In substance, the petitioners claim that inadvertently, while filing the suit, they have wrongly calculated their share to the extent of 37 kanals and 9 marlas as well as share of the respondent.

They claim that there are following three inadvertent errors in the plaint:-

“(i) That the land measuring 22 kanal 6/7 marla appearing in para No.2, 3(i) & 14 is required to be replaced with the land measuring 51 kanal 12 marla.

(ii) That the land measuring 7 kanal 4 marla appearing in para No.3(ii), 9, 10, 14, prayer para (b) and (e) is required to be replaced with the land measuring 7 kanal 8 marla.

(iii) That the land measuring 37 kanal 9 marla appearing in para 19 and prayer para (c) is required to be replaced with the land measuring 51 kanal 12 marla.”

The First Appellate Court has dismissed the application.

While deciding a suit, the Court is not bound by the pleadings

of the parties. The Court after adjudication of the respective rights is required to pass the decree in accordance with law. In such circumstances, if there is any inadvertent error, the Court while passing the decree can mould the relief.

Keeping in view the aforesaid facts, the present revision petition is disposed of with the observation that if the Appellate Court ultimately comes to a conclusion that there is an error in the pleadings, the necessary relief to the petitioners shall not be refused only because the proper pleadings have not been filed.

The Court in the exercise of its inherent power will grant the relief to which the parties are found entitled.

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

April 02nd, 2022

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**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*