

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

CR-5711-2019 (O&M)

Date of decision: 17.05.2022

Rajbala

...Petitioner

Versus

Ramphal

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sudhanshu Makkar, Advocate for the petitioner
 Mr. Ashwani Bhardwaj and
 Mr. Sumit Sharma, Advocates for the respondent

ANIL KSHETARPAL, J (Oral)

The decree holder calls into question the correctness of the order passed by the trial court on 02.08.2019 while dismissing an application under Section 152 Code of Civil Procedure, 1908, for permission to amend the judgment and decree passed by the trial court.

The petitioner's suit for grant of decree of possession by way of specific performance of the agreement to sell was decreed on 03.05.2018. During the pendency of the execution petition, the court appointed a Local Commissioner to execute the sale deed. At that stage, it came to the knowledge of the plaintiff that while filing the suit he has committed an inadvertent typographical error. The plaintiff claims the specific performance of the land comprised in Khewat No.63 instead of Khasra No.63. The petitioner claims that in the agreement to sell, the suit property has been identified by property located in all the four directions as well as by Khasra No.63. The defendant agreed to sell the property, which was purchased by him vide sale deed no. 1196 dated 08.02.2006.

The Executing Court dismissed the application while observing that such error cannot be permitted to be amended.

Section 152 of the Code of Civil Procedure, 1908, enables the court to correct clerical or arithmetic mistakes in the judgment, decrees or orders or errors arising therein from any accidental slip or omission at any point of time. Such provision has been incorporated in order to carry out the substantive justice between the parties. It is not in dispute that the house measuring 330 sq. yards was agreed to be sold while identifying the property with reference to Khasra No.63, the properties located on all the four directions as well as the property purchased by Ramphal vide sale deed dated 08.02.2006.

Keeping in view the aforesaid facts, the revision petition is allowed. The decree passed on 03.05.2018 by the court below shall stand amended. The Executing Court after identifying the property, which was agreed to be sold, shall proceed with the execution petition.

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

17.05.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE