

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

CR-2092-2017(O&M)

Date of decision:-20.1.2023

Vikram Singh

...Petitioner

Versus

Rugha @ Raghubir and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Virendra Rana, Advocate
for the petitioner.

Mr.Vikram Singh, Advocate
for respondent No.1.

H.S. MADAAN, J.

1. Briefly stated, facts of the case are that plaintiff Rugha @ Raghubir had brought a suit against defendants Mohab Singh and others seeking a declaration that he is owner in possession of the agricultural land to the extent of 1/9th share in the estate of deceased Phool Singh, whereas remaining land is owned and possessed by defendants in different shares and that defendants No.1 to 3 have no right to succeed on the basis of Will dated 28.6.2000 besides seeking relief of permanent injunction.

2. After contest that suit was decreed by the trial Court. Thereafter, the plaintiff filed an application under under Sections 151 and 152 CPC praying for amendment of plaint as well as decree-sheet contending that inadvertently in the head-note of the plaint, the shares of some of the defendants have been wrongly mentioned on account of

wrong numbering and the error happened to be clerical in nature not affecting the rights of parties, therefore necessary amendment be allowed.

3. Notice of the application was given to the defendants. Defendants No.1 to 3, who had contested the suit appeared and opposed the application contending that the same was not maintainable since the civil suit has already been decided, therefore, the application be dismissed.

4. After hearing the counsel for the parties, the application was allowed by the trial Court of Additional Civil Judge(Sr.Divn.), Tosham vide order dated 4.1.2017. For ready reference, the operative part of the order is being reproduced as under:

“The suit was filed by the plaintiff stating to effect that one Phool Singh was the owner of the suit property and he left behind nine legal heirs namely the plaintiff, defendant No.1, 2, 3, 17, 18 and Bhanwar Bai, Santosh Devi and Guddi Devi. The plaintiff claimed to be the owner of 1/9th portion of the property being one of the nine legal heirs of Phool Singh and his suit was eventually decreed vide judgment dated 19.11.2016 and the plaintiff was held entitled to 1/9th share in the estate of Phool Singh. The claim of the plaintiff is to the effect the however in the head note of the plaint the shares of the parties have inadvertently been wrongly mentioned because of clerical mistake in numbering. He has stated that his intention was to claim 1/9th share for himself while he had intended to state that defendant No.1, 2, 3, 17 and 18 were entitled to 1/9th share each while defendant No.4 to 8 being

LRs of Bhanwar Bai were collectively entitled to 1/9 share of Santosh Devi and defendant No.12 to 16 were entitled to 1/9 share of Guddi Devi. The said mistake from the perusal of the file happens to be clerical mistake which has occurred because of wrong numbering of the parties in the head note of the plaint and because of this the mistake has been carried forward in the decree sheet also.

If the present application is allowed no injustice shall be caused to any of the parties and it will only clarify the existing position and will remove unwarranted doubts which have crept into the decree. Furthermore it will not affect the share of any of the parties adversely because the suit was decreed only qua the share of the plaintiff and no declaration was made qua the share of the defendants.

As far as the contention of the defendant to the effect that the application cannot be allowed at this stage, it would be pertinent to note that Hon'ble Punjab & Haryana High Court in “Surender Pal Singh Sethi Versus State of Haryana and others 2010(2) RCR Civil 556” has held that even after the decree, amendment of the plaint and correction in the judgment and decree can be allowed to remove difficulty which arises because of bonafide errors. Accordingly, application in hand stands allowed. Amended plaint which is already on the file, is made part and parcel of the record. Reader of this Court is directed to make necessary changes in the judgment and decree and present papers

are ordered to be tagged with the main file and main file is consigned to record room after due compliance.

5. This order left respondent/defendant Vikram Singh aggrieved and he has approached this Court by way of filing the present revision petition, notice of which was given to respondents and respondent No.1 has put in appearance through counsel.

6. I have heard learned counsel for the parties besides going through the record and I find that the revision is absolutely without merit.

7. The application in question had been filed to correctly reflect the shares of some of the defendants in the head-note of the plaint and the decree-sheet for the reason that the error had taken place on account of wrong numbering. The trial Court found merit in the application stating that it deserved to be accepted to clarify the existing position and to remove unwarranted doubts, which had crept into the decree and that the application if allowed will not affect the share of any of the parties adversely since the suit was decreed only qua share of the plaintiff and no declaration was made qua the share of the defendants. With regard to the maintainability of the application judgment passed by this Court in case **Surender Pal Singh Sethi Versus State of Haryana and others, 2010(2) RCR(Civil)556** was relied upon.

8. I find myself in agreement with the trial Court in that regard and do not see any illegality or infirmity in the impugned order, which might have warranted interference by this Court by exercising revisional jurisdiction.

9. Finding no merit in the revision petition, the same stands dismissed.

20.1.2023
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No