

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

225

CR-3968-2016

Date of Decision :08.02.2023

Bhajan Dass

...Petitioner

Versus

Gulsher Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sandeep Jasuja, Advocate for the petitioner.

Mr. Vinay Bajaj, Advocate for the respondents.

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Harsimran Singh Sethi, J. (Oral)

The present civil revision petition has been filed challenging the order dated 21.12.2015 (Annexure P/8) passed by the Civil Judge (Senior Division), Fazilka by which, an application filed by the petitioner/applicant under Order 21, Rule 32 of the CPC for the enforcement of the judgment and decree dated 02.01.2013 has been rejected.

Learned counsel for the petitioner argues that one of the ground which has been taken to reject the application filed by the petitioner-applicant by the trial Court is that the description of the land in the judgement and decree dated 02.01.2013 and in the application filed under Order 21, Rule 32 of the CPC does not matches. As per the impugned order, the judgment and decree dated 02.01.2013 relates to Khasra No.39 whereas, in the application filed by the petitioner under Order 21, Rule 32 of the

CPC, land in question has been described in Khasra No.49.

Learned counsel for the petitioner submits that while passing the impugned order dated 21.12.2015 (Annexure P/8), the trial Court has failed to take into consideration the order dated 12.05.2015 passed by the Additional Civil Judge (Senior Division), Fazilka by which, an inadvertent mistake in the judgement and decree dated 02.01.2013 has been corrected to mean that description of the land to be read as with regard to Khasra No.49 instead of Khasra No.39.

Learned counsel for the petitioner submits that the impugned order passed by the Court below is without considering the fact, which was already on record and in fact the impugned order is contrary to the facts on record.

Learned counsel for the respondents does not dispute the fact that the judgement and decree dated 02.01.2013 in respect of which an application was filed by the petitioner under Order 21, Rule 34 of the CPC initially describes the land in question to be in Khasra No.39, which was later on corrected to be of Khasra No.49 vide order dated 12.05.2022 passed by the Additional Civil Judge, (Senior Division), Fazilka, and corrected decree was also passed, copy of which has been appended as Annexure P/7 with the present petition.

That being so, the impugned order is passed placing reliance upon the facts, which are not correct and hence, the same cannot be sustained in the eyes of law.

Learned counsel for the parties agreed that impugned order be set aside with a direction to the trial Court to pass a fresh order in regards to the application moved by the petitioner under Order 21, Rule 32 of the CPC

after giving due opportunity to the parties concerned.

Keeping in view the above, impugned order dated 21.12.2015 (Annexure P/8) is set aside and the case is remanded back to the trial Court for passing a fresh order on the application moved by the petitioner under Order 21, Rule 32 of the CPC by giving due opportunity to the parties concerned.

Present petition is allowed.

Parties are directed to appear before the trial Court on 13.03.2023.

February 08, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No