



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

125

CR-216-2024 (O&M)

Date of Decision: 22.05.2024

Sushma Devi

...Petitioner

Versus

General Public

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present:- Mr. Chirag Wadhwa, Advocate,
for the petitioner.

VIKAS SURI, J. (ORAL)

CM-9093-CII-2024

This is an application under Section 151 CPC for placing on record mutation No.907, as Annexure P-5.

For the reasons mentioned in the application, supported by affidavit, same is allowed. Annexure P-5 is taken on record subject to just exceptions.

CM stands disposed of.

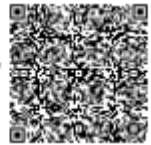
CR-216-2024

1. This civil revision has been filed under Article 227 of the Constitution of India, for setting aside the order dated 24.11.2023 passed by the learned Civil Judge (Senior Divison), Karnal, whereby the application under Sections 152, 153 read with Section 151 CPC for correction of the inadvertent error in the pleadings and judgment dated 10.01.2023 on account of accidental slip or omission on the part of the counsel by wrongly



mentioning the total land of the minor as 0 kanal 19 marla instead of 1 kanal 4 marla, has been dismissed.

2. Learned counsel for the petitioner submits that the petitioner is the mother and natural guardian of the minor, namely Ayan. Unfortunately, husband of the petitioner and father of the aforesaid minor died on 22.01.2017. He was survived by his mother Smt. Surti Devi, the petitioner, Ayan the minor son, daughters Ritika and Sejal, as his heirs on account of natural succession. The minor son Ayan was recorded as owner in possession of joint land measuring 0 kanal 19 marla situated in village Jhinjhari, Tehsil Nilokheri, District Karnal, as per jamabandi for the year 2016-17. The land that fell in the share of the heirs of petitioner's husband, namely Om Parkash son of Ram Chander, is a very small piece of un-partitioned land and the petitioner is not in position to cultivate the same. Consequently, the possibility of encroachment or illegal possession by third person would cause apprehension and therefore, keeping in view the best interest of the minor, the petitioner sought permission from the Guardian Court to alienate the land of the minor. The minor son Ayan also inherited 5 marla of land from his grandmother, namely Smt. Surti Devi, vide mutation No.907. The petition filed under Section 8 of the Hindu Minority and Guardian Act seeking the aforesaid permission was allowed vide judgment dated 10.01.2023. It is the pleaded case that the description of the land inherited by the minor son of the petitioner vide mutation No.907, regarding the land inherited from his grandmother Smt. Surti Devi, was inadvertently left out from being mentioned in the petition and hence, the said omission continued into the order dated 10.01.2023 (Annexure P-2). The petitioner



has filed the instant application seeking correction of the pleadings and judgment so as to incorporate the left out part of the land measuring 5 marla.

Learned counsel for the petitioner has relied upon the judgments in *Punjab Wakf Board vs. Bakshish Singh*, 2021 (2) LAR 537; *Tarlok Singh and another vs. Jasbir Singh and others*, 2022(2) PLR 511; *Surender Pal vs. State of Haryana*, 2010(2) RCR Civil 556; *Himmat vs. Gram panchayat*, 2016(5) RCR Civil 288; and *Suresh Jindal and another vs. Usha Jindal*, 2019(4) RCR Civil 574.

3. I have heard learned counsel for the petitioner and perused the paper-book with his assistance.

4. It is not disputed that mutation No.907 regarding inheritance of 5 marla land by minor son Ayan from his grandmother Smt. Surti Devi has been placed before this Court for the first time. The said document is not available on record of the Court below and was not placed before the Court concerned even when the application seeking correction of the pleadings and judgment was instituted. After hearing the petitioner, the Court below was of the opinion that in the peculiar facts and circumstances of the present case, the omission to include the land covered by mutation No.907 (supra), cannot be regarded as a clerical error, either in the pleadings or in the judgment. Thus, the petitioner was required to move a separate petition under Section 8 of the Hindu Minority and Guardianship Act seeking permission with regard to the said left out land. In view of the admitted factual narration noticed above, the judicial precedents relied upon by the learned counsel for the petitioner are, thus, not applicable to the case at hand being distinguishable on facts, as such.



5. Faced with the above, learned counsel for the petitioner, at this stage, prays that liberty be granted to the petitioner to move an application afresh seeking permission for sale of 5 marla land inherited by the minor Ayan from his grandmother, vide mutation No.907.

6. Accordingly, in view of the above limited prayer, the present petition is disposed of with liberty aforesaid.

May 22, 2024
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(VIKAS SURI)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No