

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

C.R. No. 6091 of 2017(O&M)

Date of Order:10.01.2024

Sanjeev K. Gulati

.Petitioner

Versus

Tarun Pal Singh Oberoi

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rohit Chandel, Advocate, for the petitioner.

ANIL KSHETARPAL, J

1. It has been noticed that on 30.10.2019, the respondent was proceeded against ex-parte as he did not enter appearance despite the publication of notice in the newspaper.

2. The petitioner herein is the owner and landlord of the tenanted premises. He filed a suit for possession and recovery of mesne profit to the extent of Rs.9,31,292/- after terminating the lease deed in favour of the tenant.

3. The respondent did not contest the suit. It was decreed ex-parte on 02.04.2010. On a reading of the judgment passed by the court, it is evident that the suit was decreed in entirety. However, on account of inadvertent mistake in the relief clause, the court held that the suit for recovery of Rs.9.31.292/- is decreed. However, while passing the decree the court inadvertently left the relief of possession and as a consequence, the petitioner filed an application under Section 152 of the Code of Civil Procedure, 1908 to correct the inadvertent mistake. However, vide order dated 20.02.2015, the application was dismissed on the ground that liberal

use under Section 152 CPC by the courts beyond its scope would not be appropriate.

4. This court has considered the averments made in the petition and carefully read the judgment passed by the trial court on 02.04.2010.

5. In the first sentence of para 8, the court decreed the suit. There is not even a remote discussion which may disentitle the plaintiff (petitioner) from relief of possession. Section 152 CPC enables the court to correct clerical or arithmetical mistake in the judgment, decrees or orders or errors arising therein from any accidental slip or omission. It may not be clerical or arithmetical mistake, however, it certainly is an accidental slip or omission which should be corrected by the Court at any point of time for fair dispensation of justice. Further, under Section 153 CPC, the Court has the enabling power to amend any defect or error in any proceeding in a suit. Thus, sufficient powers have been given to the courts to correct the errors in order to advance the cause of justice. Apart therefrom, the court also has inherent powers under Section 151 CPC. So, the courts have been empowered by the procedural laws to correct the inadvertent mistakes and to not let the parties suffer for such mistakes.

6. Keeping in view the aforesaid facts and discussion, the revision petition is allowed. The order passed by the trial court on 20.02.2015, is set aside.

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

January 10, 2024
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

:YES/NO
:YES/NO