136 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-468-2022(O&M)
Date of decision : 14.05.2024

State of Punjab/Provincial Government ...Petitioner

Vs.

Nagar Council and others ...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Kanav Singla, AAG, Punjab
for the petitioner.

Mr. Abhilaksh Gaind, Advocate
for respondents No. 1 and 2 (through Video Conferencing).

Mr. Saurabh Kaushik, Advocate
for respondent No.4.

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ANIL KSHETARPAL, J. (Oral)

1. In this revision petition, the State of Punjab questions the correctness of the order dated 31.07.2019, passed by the trial Court while dismissing its application under Section 152 read with Section 151 of the Code of Civil Procedure, 1908 (hereinafter referred to as 'the CPC, 1908'). In fact, the State of Punjab filed a suit for the grant of declaration and permanent injunction with respect to total land measuring 2396 kanals 09 marlas, however, in the plaint inadvertently khasra No. 226 (05 kanals 04 marlas) was omitted by the typist. The suit filed by the State of Punjab was decreed on 25.02.2012. The correctness of the aforesaid judgment and decree was upheld in the first appeal as well as in the second appeal. The petitioner filed an application under Section 152 of the CPC, 1908 for permitting the correction

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of inadvertent error, which has been dismissed by the Court on the ground that the State has failed to mention Khasra No. 226 (05 kanals 04 marlas) in its plaint. Hence, the application for correction of judgment is not maintainable.

2. Heard the learned counsel representing the parties at length and with their able assistance perused the paper-book.

3. Learned representing the petitioner while referring to Section 152 of the CPC, 1908 submits that the trial Court has erred in dismissing the application. He relies upon the judgment passed by the Division Bench judgment in ***'Pritam Singh vs. P. Didar Singh and another',*** **1976 RLR 586,** wherein it was held that the Court is empowered to amend the clerical errors in a decree even if may be emanating from pleadings to advance cause of justice.

4. *Per contra,* the learned counsel representing the respondents submits that the amendment in the plaint cannot be allowed at this stage.

5. This Court has considered the submissions made by the learned counsel for the parties.

6. In fact, the matter is squarely covered by the Division Bench judgment. However, on careful perusal of Sections 152 and 153 of the CPC, 1908, it is evident that the amendment of the decrees/judgments/orders is permissible even if these errors are result of typographical error arising from the pleadings. The enabling power under Sections 152 and 153 of the CPC, 1908, is required to be interpreted in a manner, which advance the cause of justice. The efforts must be made to substantively decide the matters while avoiding multiplicity of the litigation. The view taken by the trial Court is myopic to say the least. While deciding such applications the Courts below

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while taking a holistic view must decide the matters which advance the cause of justice.

7. Keeping in view the aforesaid facts, the application as well as the revision petition stand allowed.

8. The amendment in the judgment and decree shall be carried out forthwith by the trial Court.

(ANIL KSHETARPAL)
JUDGE

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Whether speaking/reasoned : Yes No

Whether Reportable : Yes No

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