

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-1246-2024

Date of Decision: 28.02.2024

RANBIR SINGH
VS
BHAGAT SINGH AND ANR

..... PETITIONER

..... RESPONDENTS

CORAM: HON’BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Vinay Kumar Pandey, Advocate for the petitioner.

GURBIR SINGH, J. (ORAL)

1. This revision petition is filed under Article 227 of the Constitution of India for setting aside order dated 07.11.2023 and 05.12.2023 passed by Civil Judge (Jr. Division) Ferozepur Jhirka, District Nuh whereby an application under Section 151 and 152 CPC for correction in judgment and decree dated 05.04.2021 filed by respondent No.1/plaintiff has been allowed.
2. Brief facts as culled out from the petition are that respondent No.1/plaintiff filed a suit for possession by way of partition with permanent injunction against the petitioner. The learned trial Court decreed the suit vide judgment and decree dated 05.04.2017 and decree for possession by way of partition was passed.
3. The plaintiff/respondent No.1 moved an application under Section 151 and 152 CPC that the boundaries of the residential plot were wrongly mentioned and the same are required to be corrected in the judgment and decree dated 05.04.2017. The petitioner contested the same on the ground that plaintiff had wrongly and intentionally mentioned the wrong boundaries. The said wrong description in the property mentioned in the plaint cannot be corrected in the judgment and decree.

4. Learned counsel for the petitioner has argued that learned trial Court has failed to appreciate when the specifications of the property have been made part of the plaint and the site plan attracted to it, the same cannot be changed after passing of decree and on receipt of the report of Local Commissioner. Section 152 CPC is based on two principles that the act of the Court should not prejudice any party. An arithmetical mistake, clerical mistake or typing error can be corrected. Only accidental mistakes can be corrected. If dimensions of the property have been wrongly mentioned, the same cannot be considered accidental mistake and cannot be corrected. Reliance has been placed on the case titled *Jayalakshmi Coelho Vs. Oswald Joseph Coelho* regarding the scope of Section 152 CPC.

5. I have heard the submissions made by learned counsel for the petitioner.

6. The suit was filed on the ground that plaintiff/defendants are co-owners and co-sharers and in joint possession of a residential plot marked with letters E F G H shown in the site plan. The boundaries and dimensions are as under:-

- North: 35', Rasta Aam
- South: 35', House of Sh. Ram Singh S/o Musaddi Lal
- East: 39.3' House of Sh. Noor Mohd.
- West: 39.3' Rasta Aam and Chowk.

The said suit was accordingly decreed and preliminary decree was passed. Respondent No.1 moved an application for correction of the boundaries on the ground that boundaries in the plaint were wrongly mentioned. The correction sought is as under:-

- North: 39' 3" Rasta Aam
- South: 39' 3"House of Sh. Ram Singh S/o Musaddi Lal

East: 35’ House of Sh. Noor Mohd. Etc.
West: 35’ Rasta Aam and Chowk.

7. The Courts below relied upon the case titled *Meena Kumari and Another Vs. General Public and Others, 2007(2) PLJ 791 (P&H) and Gulzara Singh Vs. Devender Singh, 2003(3) CCC 455 (P&H)*, wherein it has been held that the correction in the judgment can also be made even if the error has been occurred due to wrong pleadings. There was only one plot for which partition was sought. Actually the measurement of length and breath were wrongly written otherwise property adjoining the boundaries of said plot are correctly written. The mistake is apparently bonafide. The Courts are required to do complete justice to the parties for such inadvertent mistake, parties cannot be asked to go for trial again. Every Court under inherent power can correct such mistakes. The facts of **Jayalakshmi Coelho’s case (supra)** are not attracted to the facts of the present case. In the said case, the decree of divorce on the basis of mutual consent was passed and thereafter, on the application, decree was amended and the consent terms incorporated in the memorandum of agreement were also included in the decree.

8. In view of above, I do not find any illegality and irregularity in the order passed by learned Court below. This revision petition is without merit and is dismissed accordingly.

28.02.2024
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(GURBIR SINGH)
JUDGE

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