



CR-4265-2024

1

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR-4265-2024
Date of decision : 13.09.2024

Sarja Singh (D) through LR

... Petitioner

Versus

Sher Singh and others

... Respondents

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Avnish Mittal, Advocate,
Ms.Aparna Singhal, Advocate,
Ms.Ishika Jain, Advocate and
Mr.Gorav Kashyap, Advocate
for the petitioner.

Mr.Amit Jain, Senior Advocate with
Mr.Gursharan Singh, Advocate and
Mr.Pavit Aggarwal, Advocate
for the respondents.

VIKAS BAHL, J.(ORAL)

Index			
1	Challenge in the present revision petition	Paragraph 1	Pages 1-2
2	Primary issue for adjudication in the present petition	Paragraph 2	Page 2
3	Chronological list of events.	Paragraph 3-4	Pages 2-14
4	Arguments on behalf of the petitioner	Paragraph 5	Pages 14-15
5	Arguments on behalf of the respondents	Paragraph 6	Page 15-16
6	Findings of the Court	Paragraphs 7-13	Pages 16-22

CHALLENGE IN THE PRESENT REVISION PETITION

1. This is a Civil Revision Petition filed under Article 227 of the



CR-4265-2024

2

Constitution of India for setting aside the impugned orders dated 01.09.2023 (Annexure P-9) and 22.05.2024 (Annexure P-11) passed by the Additional District Judge, Rupnagar, whereby the applications (Annexure P-5 and Annexure P-10) filed by the respondents under Section 152 CPC read with Section 151 CPC for rectification / correction of the decree have been allowed.

PRIMARY ISSUE FOR ADJUDICATION IN THE PRESENT PETITION

2. The issue which arises for consideration in the present petition “is as to whether, while allowing the application under Section 152 CPC read with Section 151 CPC, filed by the defendants-respondents, it has been correctly observed that the plaintiff-present petitioner has not been held to be the sole owner of the suit land in village Tira and has been held to be owner of 1/3rd share in the suit land comprised in the three villages i.e., Tira, Thaska and Jhampur, thus, necessitating the correction in the decree of the Ist Appellate Court dated 11.06.1990”.

CHRONOLOGICAL LIST OF EVENTS

3. The present case has a chequered history and the same would be apparent from the facts detailed hereinbelow:-

i) **1985**

Suit was filed by the petitioner-plaintiff (hereinafter referred to as “the plaintiff”) for declaration with the following prayer:-

*“Suit for declaration to the effect that the plaintiff is the owner up to the **extent of 1/3 share of land** comprised in Kh/Kh No. 99/114 Khasra No.9//11(8-0), 20 (8-0), 21/1(6-13), 22 (7-7), 10//14(4-14), 15 (8-0), 16 (8-0), 17(2- 14), 24 (1-8), 25(7-19),*



12//13/1 (5-7), 16/3 (1-3), 17/1 (2-4), 17/4(1-4), 18/1 (0-15), 18/2(6-7), 23 (6-16), 24/2 (7-13), 25/1(4-4), 20//22/1 (1-0), 22//4/2 (3-12), 5/1 (0-14) and Kh/Kh No. 100/115, Khasra No. 12//17/3 (1-17), and Kh/Kh No.101/116, 9//21/2 (0-13) and Kh/Kh No. 103/118, Khasra Nos.20//6/3 (0-4), 7/4/1 (0-18), 7/7 (1-5), 24//4/3 (0-17), 5/1(0-13), 5/2 (0-16), 7/4 (0-8), 5/3 (0-14), 6/4 (0-1), 6/5 (0-10), 27//3/4 (0-18), 8/2 (3-9), 9/2 (1-2) and 1/6 share in land comprised in Kh/Kh No. 191/212, Khasra No. 12//22/2 (5-2) situated within the revenue limits of **village Jhampur H/B No. 22** vide Jamabandi relating to the year 1980-81 **or in the alternative is the owner** up to the extent of 1483/2409 share of the same land and alongwith the share of the tubewells and 1/3 share of the houses and plots as shown in the site plan attached with the plaint, (it may be read as the part of the plaint) and of **1/3 share of land** comprised in Kh/Kh No. 23/35, Khasra Nos. 6//10 (7-1), 11 (8-0), 12(0-18), 19(3-18), 20(8-0), 7//6/3 (2-4) situated within the revenue limits of **village Thaska**, vide jamabandi relating to the year 1981-82 and is in joint possession with the defendants and **is the sole owner in possession of the land comprised** in Kh/Kh No. 426/466, Khasra No. 53//22/3 (2-7), 55//1(3-6), 2/2(3-7), 2/3 (1- 13), 2/1(3-0), 9(8-0), 10(1-12), 12/2 (0-14) situated within the revenue limits of **village Tira H/B No.20**, vide jamabandi relating to the year 1982-83 alongwith the share of the tubewell and of 31/54 share out of land comprised in Kh/Kh No. 190/211, Khasra No.28//10/2(2-1) situated within the revenue limits of village Jhampur H/B No.22 vide jamabandi relating to the year 1980-81 and **in the alternative is owner** upto the extent of 2/3 share and in joint possession of the same land with a consequential relief of permanent injunction restraining the defendants from getting the mutation of the suit land attested in their favour in a manner other than the manner



CR-4265-2024

4

detailed above.”

A perusal of the headnote of the plaint would show that the suit land pertains to three different villages i.e. village Jhampur, village Thaska and village Tira. Prayers in the alternate were also made by the plaintiff.

ii) 18.12.1986

The suit filed by the plaintiff was dismissed by the trial Court.

iii) 11.06.1990 (Annexure P-1)

The appeal filed by the plaintiff was allowed and it was held that the land in question was Joint Hindu Coparcenary Property in the hands of Rachan Singh, father of the plaintiff/ petitioner and defendant no.1 (respondent no.1) and grandfather of defendants no.2 and 3 (respondents no.2 and 3) and by presuming notional partition at the time of death of Rachan Singh, it was observed that the plaintiff was entitled to 1/3rd share in the coparcenary property as there were three coparcenars at that time of death of Rachan Singh. Paragraphs 10 and 11 of the said judgment of the Ist Appellate Court, which are relevant for consideration, are reproduced hereinbelow:-

“10. The trial court has observed that jamabandi Ex. P-5, P-6, P-8, P-10, P-11 disclose the name of Atru in the revenue records but the substitution of Khasra numbers with the suit land is not proved and exclusive ownership of Rachan Singh is proved from Ex. P-2, P-3 and P4. The Khasra numbers of the land admittedly did not change at any time and it remained the same whether the land was in the name of Atru or was in the name of Rachan singh. Even the counsel for the defendant has argued that there is no doubt that the suit property at one time stood in the name of Atru but since it did not devolve upon



Rachan Singh by way of inheritance and therefore it was ancestor in his hands. There is no evidence, as already Observed, that land came to Rachan Singh in any manner other than inheritance. Therefore, it cannot be said that land in dispute was not joint Hindu coparcenary property in the hands of Rachan Singh qua the plaintiff. Therefore finding of the trail court on issues No. 1 and 2 are reversed and it is held that property in dispute was ancestral in the hands of Rachan Singh qua the plaintiff.

11. After holding the property ancestral in the hands of Rachan Singh, it is contended by counsel for the appellant that there remains no dispute. Even if it is held that Rachan Singh had executed a valid Will in favour of plaintiff as well as defendants, he could not will away more than his share in the coparcenary property. Presuming notional partition at the time of death of Rachan Singh, he was admittedly having 1/3 share in the coparcenary property as there were 3 coparcenars living at that time. The appellant does not dispute the will and his suit is only for declaration that he was owner to the extent of 1/3 share which he would have been entitled to, even if the execution of the will by Rachan Singh is proved. Since because Rachan Singh could will away only 1/3 share inherited by him to the defendants or the plaintiff. In these circumstances, the suit of the plaintiff appellant for 1/3 share as prayed for by him has to be decreed.”

A perusal of the above mentioned paragraphs as well as the entire judgment would show that the plea of the plaintiff to the effect that he was entitled to 1/3rd share in the suit property was accepted after accepting the plea that the property in question was Joint Hindu Coparcenary Property. The fact that the petitioner-plaintiff had pressed for and was



CR-4265-2024

6

granted only 1/3rd share and not full ownership regarding any land much less in village Tira, as is now sought to be agitated is further apparent from the reading of the entire judgment moreso paragraph 2 of the judgment as well as paragraph 5 wherein the issues arising in the present case were framed. Paragraphs 2 and 5 of the said judgment are reproduced hereinbelow:-

“2. Surja Singh filed the present suit for declaration to the effect that he was owner to the extent of 1/3 share in the lands mentioned in the suit and was in joint possession thereof to the said extent and by way of consequential relief he sought a decree for permanent injunction restraining the defendants from getting the mutation of the land attested in their favour otherwise than In the manner to which the plaintiff is entitled.

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5. On the pleadings of the parties, the following issues were framed:

- 1. Whether the suit land was originally owned by Atru sons of Narain as alleged? OPP*
- 2. Whether the suit properties are ancestral/Joint Hindu coparcenary between parties headed by Rachan Singh being Karta as alleged, OPP*
- 3. Whether the plaintiff is owner to the extent 1/3 share of the suit properties? OPP*
- 4. Whether the Rachan singh can be said to be absolute owner on the basis of will dt.15.4.85? OPP*
- 5. Whether the plaintiff is entitled to injunction as prayed? OPP*
- 6. Whether plaintiff has got no cause of action? OPD*



CR-4265-2024

7

7. Whether defendant No.2 to 3 are only legal heirs on the basis of valid will dt.01.06.1980 of Bachan Kaur as alleged? OPD”

A perusal of the above would show that the Ist Appellate Court had decided the matter on the premise that the plaintiff was seeking declaration to the extent of 1/3rd share in the land mentioned in the suit and as per issue no.3, the question which was to be considered, was as to whether the plaintiff was owner to the extent of 1/3rd share of the suit properties. It would be relevant to mention that in the entire judgment, there is no finding to the effect that the plaintiff was the sole owner in possession of any land much less the land situated in village Tira. Even no arguments to the said effect were raised before the Ist Appellate Court. In the main suit, several prayers were made and one of the prayers was also to the effect that the plaintiff be declared the sole owner in possession of the land comprised in certain khasra numbers in village Tira. On account of the word “as prayed for” in the judgment and on account of mentioning that the “suit of the appellant (petitioner herein) is hereby decreed” in the decree sheet dated 11.06.1990 of the Ist Appellate Court, a confusion had crept in on account of the vague prayers in the suit.

iv) 08.04.2010 (Annexure P-2)

The respondents-defendants, who were opposing the plea of the property being Joint Hindu Coparcenary Property, had filed RSA-1789-1990 and the Coordinate Bench of this Court vide judgment dated 08.04.2010 had dismissed the said regular second appeal. The operative portion of the said judgment is reproduced hereinbelow:-



*“.....Bachan Kaur was also entitled to share out of the property of Rachan Singh, **which did not affect the right of the plaintiff/respondent to get 1/3rd share in the property by way of notional partition on the death of Rachan Singh, as on said date the property was to be divided into three parts. The decree in favour of the plaintiff/respondent is qua 1/3rd share only, therefore, the non- determining the share of widow did not affect the right of the plaintiff/respondent to seek declaration of ownership qua 1/3rd share of Joint Hindu Family coparcenary property.***

For the reasons stated, the substantial questions of law raised are answered against the appellants.

Resultantly, this regular second appeal being without any merit is dismissed, but with no order as to costs.”

A perusal of the above operative portion of the above said judgment would show that the fact that the decree in favour of the plaintiff was qua 1/3rd share only, was reiterated.

v) 14.01.2011 (Annexure P-3)

Special Leave to Appeal (Civil) nos.21640/2010 filed by the respondents-defendants was dismissed by the Hon'ble Supreme Court.

vi) 24.08.2015 (Annexure P-4)

Since an error had crept in the decree dated 11.06.1990, thus, CM-7692-C-2011 had been filed in RSA-1789-1990 seeking rectification of the same. The said case came up before the Coordinate Bench of this Court and the Coordinate Bench of this Court vide order dated 24.08.2015 observed that the plaintiff was allowed 1/3rd share in the suit land and that it appeared that the counsel for the parties as well the trial Court did not

notice the fact that in the head note of the plaint it had been stated by the



CR-4265-2024

9

plaintiff that he was the sole owner of the land in village Tira and that there was no dispute on the aspect that there was no finding of the Ist Appellate Court or in the regular second appeal that the plaintiff was the exclusive owner of the land in village Tira as mentioned in the headnote of the plaint, and further observed that as such the observations in paragraph 13 of the judgment of the appellate Court were to be read as per the findings recorded in paragraphs 9 to 11. It was further observed that since no mistake had been made in the decree passed by the Coordinate Bench of this Court in the regular second appeal, thus, the parties were directed to move an appropriate application before the Ist Appellate Court seeking rectification of the decree passed therein and the same was ordered to be disposed of, in accordance with law, keeping in view the findings recorded in paragraphs 9 to 11 of the judgment of the Ist Appellate Court dated 11.06.1990 and it was observed that the same was only a clerical mistake which could be rectified by the Ist Appellate Court. The relevant portion of the said order is reproduced hereinbelow:-

“Heard.

The appellant seek rectification of the decree passed in RSA No.1789 of 1990 wherein it has been held that the plaintiffs are owners of 1/3 share of the entire property on the basis of notional partition. While going through the file it transpires that the decree in RSA No.1789 of 1990 was drawn as per the judgment dismissing the appeal. The dispute raised in the application pertains to the property situated at village Tira. In the head note of the plaint the plaintiff Sarja Singh raised various pleas including plea that he is sole owner in possession of the land situated in village Tira.



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However, the suit of the plaintiff was decreed as prayed for and the decree was prepared accordingly. The first appellate Court has held the entire property in dispute as ancestral in the hands of Rachan Singh qua the plaintiff and further specifically held that the claim of the plaintiff i.e. Sarja Singh was allowed for 1/3rd share in the suit land as prayed for. It appears that counsel for the parties and learned trial Court did not notice this fact that in headnote of the plaint it was mentioned that “Sarja Singh was sole owner of the land of village Tira.”

It is not disputed that there is no finding of the courts below or in the regular second appeal that Sarja Singh was exclusive owner of the land of village Tira as mentioned in headnote of the plaint, as such, the observations in para 13 of the judgment of the appellate Court is to be read as per the findings recorded in para 9 to 11.

There is no mistake in the decree passed by this Court, as such, the parties are directed to move appropriate application before the first appellate Court seeking rectification of decree passed therein. On filing of the application, the same be disposed of in accordance with law, in view of the findings recorded in paras 9 to 11 of the judgment of first appellate court, quoted above. It was only a clerical mistake which can be rectified by the lower appellate Court.”

It is not in dispute that the said order was not challenged any further and had attained finality.

vii) 25.11.2019 (Annexure P-7)

The application filed by the defendants was dismissed by the Ist

Appellate Court.



viii) 25.05.2023 (Annexure P-8)

The CR-1556-2020 filed by the defendants challenging the order dated 25.11.2019 vide which the application filed by the defendants for rectification under Section 152 CPC had been dismissed, was disposed of in the following terms:-

“1. Learned counsel for the parties agree that the decree sheet is to be prepared on the basis of the relief granted by the Court while adjudicating an issue and not on the basis of the relief claimed in the suit whereas, in the present case, the decree sheet which was prepared by the lower Appellate Court was on the basis of the relief claimed and not on the basis of the relief granted, hence, the decree sheet needed an amendment keeping in view the relief granted.

*2. Learned counsel for the parties submits that the impugned order dated 25.11.2019 be set aside and the case be **remanded back** to the lower Appellate Court for passing an order afresh as to whether the decree sheet has been prepared as per the relief granted, which relief has been upheld upto the Hon'ble Supreme Court of India.*

3. Keeping in view the joint request of learned counsel for the parties, the impugned order dated 25.11.2019 is set aside with liberty as prayed for.

*4. The lower Appellate Court is directed to pass a fresh order as to whether the decree sheet prepared is in accordance with the relief granted, which relief has already attained finality upto the Hon'ble Supreme Court of India. **In case, the lower Appellate Court comes to the conclusion that there needs to be a modification in the decree sheet, appropriate order be passed qua the same.** Let the said issue be decided within a period of two months from the receipt of copy of this order, after hearing both the parties.*

**CR-4265-2024****12**

5. *Parties are directed to appear before the lower Appellate Court on 10.07.2023.*

6. *The present civil revision petition is disposed of in above terms.*

CM-2608-CII-2021

As the main civil revision petition has been disposed of, present application also stands disposed of.”

A perusal of the above order would show that the matter was remanded to the Ist Appellate Court to pass a fresh order and it was observed that in case any modification in the decree sheet was required to be carried out, then an appropriate order regarding the same be passed.

ix) 01.09.2023 (Annexure P-9)

After the remand of the case, the Additional District Judge, Rupnagar, allowed the application filed by the defendants under Section 152 CPC read with Section 151 CPC for correction of the decree dated 11.06.1990 passed in the Civil Appeal no.T-365/14.01.1987/28.04.1989 vide order dated 01.09.2023. The relevant portion of the said order at page 96 of the paper book would show that the rectification had been carried out in the decree with respect to only village Jhampur whereas the dispute in the present case was with respect to three villages. Thus, although the reasoning in the order was in accordance with law but the plaintiff-petitioner was only granted declaration to the effect that he was owner upto the extent of 1/3rd share etc. with respect to the suit property in village Jhampur alone.

Although the said order dated 01.09.2023 was against the plaintiff and was in favour of the defendants inasmuch as even 1/3rd share of the other two villages had not been granted to the petitioner in accordance

**CR-4265-2024****13**

with the judgment of the Ist Appellate Court dated 11.06.1990 but in all fairness, a second application under Section 151 CPC read with Section 152 CPC was filed by the defendants seeking rectification of the amended decree sheet dated 01.09.2023 by making a prayer that the relief be granted to the petitioner with respect to the other two villages also i.e. Thaska and Tira.

It would be relevant to note that the petitioner had neither filed any application for correction of the amended decree dated 01.09.2023 nor challenged the same at that stage although the same has been challenged in the present revision petition after the subsequent order dated 22.05.2024 (Annexure P-11) has been passed.

x) 22.05.2024 (Annexure P-11)

The second application filed by the defendants under Section 151 read with Section 152 CPC was allowed by the Additional District Judge, Rupnagar, vide order dated 22.05.2024. While allowing the said application, the entire background of the case was considered including the fact that the order dated 24.08.2015 passed by the Coordinate Bench of this Court was not challenged before the Hon'ble Supreme Court. In paragraph 11 of the impugned order, it was noticed that villages Thaska and Tira were not mentioned in the amended decree sheet although the plaintiff-petitioner was entitled to 1/3rd share of the suit land in all the three villages. It was further observed that it had not been disputed that there was no finding of any Court upto the Hon'ble Supreme Court to the effect that the plaintiff was exclusive owner of the land in village Tira and thus, the decree had to

**CR-4265-2024****14**

be prepared in accordance with the actual relief granted by the Ist Appellate Court which had only accepted one argument of the plaintiff-petitioner that he was owner of the suit land the extent of 1/3rd share as the land was Joint Hindu Coparcenary Property. In paragraph 13 it was observed that the order dated 01.09.2023 also suffered from a clerical mistake to the effect that two villages had not been added in the relief granted and accordingly, the application was allowed and the plaintiff was granted relief with respect to all three villages to the extent of 1/3rd share.

4. The petitioner has filed the present revision petition challenging the orders dated 01.09.2023 and 22.05.2024.

ARGUMENTS ON BEHALF OF THE PETITIONER

5. Learned counsel for the petitioner has submitted that one of the prayers in the plaint of the petitioner was that he is the sole owner in possession of the land comprised in specific khasra numbers in village Tira and once the Appellate Court had in paragraph 11 observed that the suit of the plaintiff stands decreed “as prayed for”, thus, the decree sheet should have also been prepared in consonance with the said observations and the plaintiff should have been held to be the sole owner in possession of the land comprised in said specific khasra numbers with respect to village Tira. It is further submitted that it was the case of the plaintiff in paragraph 3 of the plaint that in case defendant no.1 was laying a claim with respect to 1/3rd share in the land at village Tira, then the plaintiff was also entitled to 1/3rd share plus 16 kanals of land at village Jhampur and the said 16 kanals were to be deducted out of the share of Rachan Singh and thus, the said claim be



granted in favour of the plaintiff.

ARGUMENTS ON BEHALF OF THE RESPONDENTS

6. Learned senior counsel for the respondents, on the other hand, has submitted that the impugned orders are absolutely in accordance with law and call for no interference. It is submitted that a perusal of the judgment of the Ist Appellate Court would clearly show that the plaintiff has been granted the relief of 1/3rd share on account of the fact that the property was held to be Joint Hindu Coparcenary Property and there is no relief granted to the petitioner on the aspect of he being sole owner of any parcel of land in any village. It is further submitted that the argument now sought to be raised by learned counsel for the petitioner to the effect that in case defendant no.1 claims 1/3rd share, then the plaintiff should also be given something extra, was neither raised before the Ist Appellate Court nor had been granted and it is not open to the petitioner to go beyond the judgment of the Ist Appellate Court which has been upheld upto the Hon'ble Supreme Court. It is stated that in the present proceedings, the only question before the Court is as to what actual relief has been granted to the plaintiff by the Ist Appellate Court and the entire issue which had been settled cannot now be reopened. It is further stated that although the petitioner has chosen to challenge the order dated 22.05.2024 but the said order grants substantial relief to the plaintiff inasmuch the earlier order passed on 01.09.2023 did not grant the relief to the plaintiff with respect to the aforementioned two villages and it is only on account of the fair application moved by the defendants that relief with respect to villages Thaska and Tira has also been

**CR-4265-2024****16**

granted. It is submitted that the provision of Section 152 CPC specifically provides for amendment of judgments, decrees or orders, when clerical or arithmetical mistakes have occurred in the judgments, decrees or orders or errors have arisen therein from any accidental slip or omission and in the present case, it is apparent from a reading of the judgment of the Ist Appellate Court that an apparent error / slip was there in the decree of the Ist Appellate Court which has been rightly rectified. It is further submitted that the entire issue was clarified by the Coordinate Bench of this Court in the order dated 24.08.2015 passed in CM-7692-C-2011 and the said order has not been challenged by the plaintiff and thus, the petitioner-plaintiff is also estopped from raising the pleas that are now sought to be raised by him.

FINDINGS OF THE COURT

7. This Court has heard learned counsel for the petitioner and learned senior counsel for the respondents and has perused the paper book and is of the opinion that the present petition is meritless and deserves to be dismissed.

8. As has been noticed in the detailed facts, which have been mentioned hereinabove, it could not possibly be disputed before this Court that a perusal of the judgment dated 11.06.1990 clearly showed that the plea agitated on behalf of the plaintiff therein was for declaration to the effect that he was owner to the extent of 1/3rd share in the suit land on account of the fact that the property in question was Joint Hindu Coparcenary Property and no argument was raised to the effect that the plaintiff was sole owner of any land comprised in any of the three villages, much less village Tira.

**CR-4265-2024****17**

Moreover, no finding has been given in favour of the present petitioner-plaintiff to the effect that he is the exclusive owner of any land in any of the villages, much less village Tira. Even the second plea sought to be raised before this Court with respect to the fact that in case defendant no.1 was claiming 1/3rd share in the land at village Tira, then the plaintiff was also entitled to 1/3rd share plus some other land in village Jhampur, was never raised before the Ist Appellate Court nor any such relief was granted. The petitioner-plaintiff was satisfied with the judgment of the Ist Appellate Court and it is only the defendants who had challenged the same before this Court and then before the Hon'ble Supreme Court and the judgment of the Ist Appellate Court was upheld. A perusal of the operative part of the judgment of the High Court dated 08.04.2010 (Annexure P-2) (which has been reproduced hereinabove) passed in the regular second appeal filed by the defendants would further make it clear that it was the undisputed understanding between the parties that the decree in favour of the plaintiff was qua 1/3rd share only and no further relief had been granted to the plaintiff. Importantly the Coordinate Bench of this Court vide order dated 24.08.2015 (the relevant portion of which has been reproduced hereinabove) had after hearing both the parties, while disposing of CM-7692-C-2011 had considered the same issue and had observed that since there was no finding of any Court that the plaintiff was exclusive owner of the land in village Tira, which fact was although mentioned in the headnote of the plaint but no relief regarding the same was granted and thus, it was observed that the observations in paragraph 13 of the judgment of the Ist



Appellate Court were to be read along with the findings recording in paragraphs 9 to 11 and the only reason why the Coordinate Bench did not correct the decree was in view of the fact that there was no mistake in the decree passed by the High Court in the regular second appeal and the error was in the decree of the Ist Appellate court and thus, the defendants were permitted to move an application for rectification of the said decree and it was also observed that the same was only a clerical mistake which could be rectified by the Ist Appellate Court.

9. In view of the said findings which had attained finality, the present revision petition is absolutely meritless as the further proceedings and further orders, more so, the impugned orders are in consonance with the order passed by this High Court dated 24.08.2015, which had attained finality. A perusal of the order passed by the Coordinate Bench of this Court on 25.05.2023 (Annexure P-8) in CR-1556-2020 filed by the defendants, when the matter after remand was not decided in accordance with law by the Ist Appellate Court, would also clearly show that it was the undisputed understanding between the parties that the decree sheet was to be prepared on the basis of the relief granted and not on the basis of the relief claimed. A perusal of the impugned order dated 22.05.2024 would show that the Court has correctly considered the judgment of the Ist Appellate Court which has attained finality and has rightly come to the conclusion that the decree passed by the Ist Appellate Court was not in consonance with the relief granted by the Ist Appellate Court and was accordingly rectified. The argument raised on behalf of the petitioner to the effect that actually the



CR-4265-2024

19

relief which has been granted by the Ist Appellate Court to the petitioner is of complete ownership of specific khasra numbers in village Tira, is a complete misreading of the judgment dated 11.06.1990. A reading of the said complete judgment would show that no such relief has been granted. The decrees of the Court are to reflect the actual relief granted in the judgment and it should be the endeavour of every Court to pass the decree in consonance with the actual relief granted and by virtue of the impugned order, the said object has been met. The impugned orders are in conformity with the power of the Court under Section 152 CPC.

10. Section 152 CPC is reproduced hereinbelow:-

“152. Amendment of judgments, decrees or orders .-

Clerical or arithmetical mistakes in judgments, decrees or orders or errors arising therein from any accidental slip or omission may at any time be corrected by the Court either of its own motion or on the application of any of the parties.”

A perusal of the said provision would show that wide powers have been given to the Court to rectify accidental slip / omission / errors and no specific time has been mentioned in the said provision for carrying out the said rectification.

11. A Coordinate Bench of this Court in the case of ***Saudagar Singh vs. Amir Singh & others*** reported as ***2009(4) RCR (Civil) 638*** after relying upon the judgment of the Division Bench of this Court as well as other judgments had observed that the language of Section 152 CPC does not restrict the power of the Court to correct the clerical or accidental errors and the said provision has been framed to advance the cause of justice and



to avoid the multiplicity of litigation. It was further observed that the mistake in the decree could be corrected by the Court under Section 152 CPC, even though it may have been copied from the pleadings of the parties themselves and that it was not even necessary to undertake the amendment of pleadings while carrying out the said correction. Reference has also been made to the judgment of the Hon'ble Supreme Court in the case of **Jayalakshmi Coelho vs. Oswald Joseph Coelho** reported as **(2001) 4 SCC 181** in which it was observed that the principle on which the provision of Section 152 CPC is based is that the mistake by Court ought not to cause a party to suffer and whatever be the intention of the court while passing a decree should be clearly reflected therein and that the powers under Section 152 CPC are inherent powers and are available to all courts. The relevant portion of the said judgment is reproduced hereinbelow:-

*“4. These decisions are countered by reference to judgment in **Pritam Singh v. P. Didar Singh and another, 1976 RLR 586** where a Division Bench of this Court had ruled that language of Section 152 of Civil Procedure Code does not restrict the power of the Court to correct the clerical or accidental error and **the powers mentioned in Section 151, 152 and 153 are vested in the Court to advance the cause of justice and to avoid the multiplicity of proceedings. It further held that a mistake in decree could be corrected by the Court under Section 152 Civil Procedure Code, even though it may have been copied from the pleadings of the parties themselves and that it is not even necessary in the correction of the decree to undertake the amendment of pleadings. The Hon'ble Supreme Court held in Jayalakshmi Coelho v. Oswald Joseph Coelho, 2001(2) RCR (Civil) 515: (2001)4 SCC 181 that the principle***



on which the provisions of Section 152 are based is that mistake by court ought not to cause a party to suffer and whatever be the intention of the court while passing a decree should be clearly reflected therein. The Hon'ble Supreme Court laid down that powers under Section 152 are inherent powers and would be available to all courts and authorities regardless whether Section 152 is applicable to any particular proceedings.

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.....Secondly the power to correct accidental error or omission under Section 152 empowers the Court to correct any such mistake at any time either on its own motion or on the application of any of the parties. According to the Full Bench any such order passed by the Court does not amount to passing a decree and such an amendment does not in any way affect the merit of controversy, which has been determined by the Court and so even when such an unamended judgment has been affirmed by the superior court, it does not preclude the Court which passed the decree from correcting such an order. The Full Bench ruled that the doctrine of merger in such a situation was clearly misplaced.

6. The obvious fall out of the decision of the Full Bench is that the principles that could govern amendment of a decree where a decision of lower Court gets merged with an Appellate Court decision would be different from cases where there is merely an amendment through correction of accident slip or omission or an arithmetical mistake found in the decree of the lower court. This mistake could be either by the court or it could result out of a mistake inadvertently originating in the pleadings that gets transported to all other proceedings right from the judgment and decree at the trial Court to the higher forum. A party who applies for amendment in such a case does not really substitute a different property nor does he claim any



new right to any property not already in suit. He does what the judgment even otherwise provides but the judgment does not give a proper expression by its inherent error or omission.”

12. In view of what has been stated hereinabove, this Court is of the firm opinion that the issue involved in the present case, as framed in paragraph 2 of the judgment, is answered against the petitioner and in favour of the respondents.

13. Keeping in view the above said facts and circumstances, finding no merit in the revision petition, the present revision petition is dismissed.

(VIKAS BAHL)
JUDGE

September 13, 2024.
Davinder Kumar

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