

Date of decision : 16.07.2024

...Petitioner

Vs.

...Respondents

Present: Mr. A.S. Salar, Advocate
for the petitioner.

Mr. Arihant Jain, Advocate and
Mr. Kanish Jindal, Advocate
for the respondents No. 3 to 6.

Mr. Rajat Arora, Advocate for
Mr. Aminder Singh, Advocate
for respondent No.7.

Mr. Sanjeev Goyal, Advocate
for respondents No. 8 and 9.

1. The plaintiff has filed this revision petition to assail the correctness of the interlocutory order passed by the trial court on 17.08.2023, while dismissing his application for permission to amend the plaint.

2. The plaintiff sought amendment of the following three errors, in the assertions made in the plaint:-

1. He claimed that after the portion '1/6th share', the word 'each' has been inadvertently omitted.
2. The correct sale deed number is 1268 and not



1246.

3. He also sought amendment in the prayer clause that the plaintiff should be granted appropriate share if he is not found to be the owner of 1/6th share.

3. It is pitiful that the trial court chose to dismiss such application. The Code of Civil Procedure, 1908, allows that Courts to correct the clerical or arithmetical errors even after the case has been finally decided. Sections 152 and 153 of the Code of Civil Procedure, 1908 permit the Court to carry out such amendments. The view taken by the trial Court is myopic. The role of Courts is to ensure that substantive justice has been done between the parties.

4. Learned counsel representing the respondents submits that the application has been dismissed on the following four grounds:-

1. Once the first application has been allowed, the second application for permission to amend the plaint is not maintainable.
2. The amendment sought by the plaintiff(the appellant) is not covered by proviso to Order VI Rule 17 of the Code of Civil Procedure, 1908.
3. The plaintiff has failed to show due diligence.
4. The parties have already led evidence.

5. On a Court question, the learned counsel representing the respondents failed to draw the attention of the Court to any provision in the CPC, that prohibits the Courts to entertain a second application for permission



to amend the pleadings. With regard to the second reason i.e. applicability of proviso to Order VI Rule 17 of the Code of Civil Procedure, 1908, the court should take into account that whether the amendment sought is procedural or substantive. If it is procedural or arising from a printing error, the same can be corrected at any stage, even after the decision of the main case. With regard to next reason, the Court is required to evaluate the facts and circumstances of the case. “To err is human”. There are only printing errors in the plaint, which are sought to be corrected. Hence, the court should have allowed the same. The last reason put forth by the learned counsel also holds no firm ground because the errors sought to be corrected by the plaintiff can be corrected at any stage.

6. Keeping in view the aforesaid facts and discussion, the revision petition is allowed.

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

16.07.2024
neeraj

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No