

123 MANGE RAM (DECEASED) THROUGH LRS.
 VS
 TEK RAM AND ANOTHER

Present: Mr. Amit Kumar Jain, Advocate
 for the applicant/appellant.

 Mr. Sanjiv Kumar Aggarwal, Advocate
 for the non-applicants/respondents.

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CM-17778-C-2018

1. For the reasons stated in the application which is supported by an affidavit, the application for bringing on record the legal representatives of deceased late Sh. Tek Ram (respondent No.1), is allowed, subject to all the just exceptions.
2. The amended memo of parties is taken on record.
3. CM stands disposed of.

RA-RS-20-2024

4. To err is human. The Court should not shy away from correcting inadvertent errors. There is an apparent mistake on the part of the Court while dismissing appellant's appeal on 09.11.2011. Section 151, 152 and 153 of the Code of Civil Procedure, 1908 (in short 'CPC'), enables the Court to correct the aforesaid error. In fact, it is the duty of the Court to correct inadvertent error.
5. Sh. Tek Ram and Sh. Maya Ram were two brothers. Their land holding was held to be beyond the ceiling limit as per Haryana Ceiling of Land Holding Act, 1972 (in short '1972 Act'). Hence, they were declared big land owners while declaring their land as 'surplus'. They challenged the

correctness of the aforesaid order before the competent authorities in appeal and revision petition, which were dismissed.

6. Subsequently, both the brothers filed two separate suits. Sh. Tek Ram filed Civil Suit No.266 of 1980, whereas, Sh. Maya Ram filed Civil Suit No.662 of 1982.

7. The appellant was defendant No.2 in Sh. Tek Ram's suit, which was dismissed by the trial Court, however, reversed by the First Appellate Court. Civil Suit No.662 of 1982 filed by Sh. Maya Ram was decreed by the trial Court, however, dismissed by the First Appellate Court. Two regular second appeals came to be filed in this Court, one by the appellant, who was defendant No.2 in Sh. Tek Ram's suit, whereas, second by Sh. Maya Ram.

8. This Court on 09.11.2011 in para 8 held that both the suits were not maintainable, which is extracted as under:-

“8. It is not as if the plaintiff had not resorted to an action to challenge the declaration of surplus. He had exhausted all the remedies under the Act and if the order of the Financial Commissioner itself was to be challenged, it could have been done only under a jurisdiction of the High Court to examine whether the procedure prescribed under the Act had been followed or not. It cannot be reopened by means of a suit when a law specifically barred it. Section 9 of the Civil Procedure Code itself provides for adjudication of all matters of civil nature, except in so far as matters where Court's jurisdiction is specifically barred by law. The bar contained under the Land Ceiling Act is to ensure that the judicial intervention are not brought where authorities under the Ceiling Act itself are given quasi-judicial powers to adjudicate on the contentions raised by parties. If a party exhausts the power under the Act, there is no further jurisdiction that vests with any Civil Court to reopen the issue. The suits were clearly barred in law and rightly dismissed by the lower appellate court below. Both the appeals are, consequently, dismissed. No costs.”

9. It is evident that this Court held that the civil suit filed by the brothers namely Sh. Tek Ram and Sh. Maya Ram were not maintainable. Hence, the appeal filed by Sh. Tek Ram was required to be allowed, whereas, appeal filed by Sh. Maya Ram was required to be dismissed. However, due to oversight, the Court dismissed both the appeals.

10. Learned counsel for the respondents submits that the application has been filed after a period of 7 years. He relies upon the judgment passed in *Srihari (Dead) through LR. Ch. Niveditha Reddy Vs. Syed Maqdoom Shah and others, 2015(1) SCC (Civil) 610*. The Supreme Court has held that if the Court is required to go into the merits of the case to alter or add to the terms of the original decree, then the same is not covered by Section 152 of the 'CPC'.

12. In the opinion of this Court, the aforesaid judgment is distinguishable because there is a patent inadvertent typographical/printing error while passing the judgment dated 09.11.2011. Learned counsel for respondents does not dispute the fact that there is no period of limitation for correcting printing errors.

13. It is evident that printing error occurred due to the fact that two appeals were being decided by a common order.

14. Keeping in view the aforesaid discussion, the judgment passed on 09.11.2011 is corrected. RSA-158-1983 shall stand allowed, whereas, RSA-1037-1984 would continue to be dismissed.

15. With these observations, the review application is disposed of.

March 19, 2025

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(ANIL KSHETARPAL)
JUDGE