

## **Gurmeet Kaur and others Vs Gurdeep Singh @ Kuldeep Singh (dead) through L.Rs. and others**

**Court:** High Court Of Punjab And Haryana At Chandigarh

**Date of Decision:** Aug. 21, 2012

**Acts Referred:** Civil Procedure Code, 1908 (CPC) â€” Section 151, 152, 153

**Hon'ble Judges:** A.N. Jindal, J

**Bench:** Single Bench

**Advocate:** C.L. Verma, for the Appellant; Ruchi Sekhri, Advocate for Mr. Pankaj Bhardwaj, Advocate, for the Respondent

**Final Decision:** Allowed

### **Judgement**

A.N. Jindal, J.

This revision petition has arisen out of the order dated 6.5.2010 passed by the trial court dismissing the application

preferred by the plaintiff -petitioner (herein referred as, "the petitioner") for correction of the judgment and decree. The factual background of the

case is that the petitioner had filed a suit for separate possession by way of partition by metes and bounds regarding the house measuring 416-2/3

sq. yards, bearing khasra No. 23/24-377/4, khata No. 377/445-379/457. The suit was decreed on 28.7.2003. It has been further averred that in

the plaint dated 4.5.2000 (Annexure P/1), that due to inadvertence the petitioner recorded khasra No. 23/24-377/4 whereas it was 23//24, 37//4.

However, the boundaries and area of the plot were correct and mistake was just typographical which came to the notice of the petitioner when he

along with copy of the judgment and decree approached the revenue Patwari who consulted the sale deed as well as copy of jamabandi and

informed him about the mistake and mentioning of khasra No. 23/24-377/4 instead of khasra No. 23//24 and 37//4. Thus, he applied before the

trial court for making correction in the plaint as well as in the judgment and decree.

2. The application was dismissed by the trial court.

3. Arguments heard. Record perused.

4. For settling the controversy, Sections 151, 152 and 153 CPC are required to be reproduced, which reads as under :

151. Saving of inherent powers of Court -Nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the Court to

make such orders as may be necessary for the ends of justice, or to prevent abuse of the process of the Court.

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.

153. General power of amend - The Court may, at any time, and on such terms as to costs or otherwise as it may think fit, amend any defect or

error in any proceedings in a suit; and all necessary amendments shall be made for the purpose of determining the real question or issue raised by

or depending on such proceedings.

5. The crux of the aforesaid provisions is that the court at the time of proceedings may amend any defect or error in the proceedings in the suit and

all necessary amendments shall be carried out for the purpose of determining the real question or issue. It is a fact that the area of the plot was

416-2/3 square yards and the boundaries and area of the plot are not in dispute which are part of the plaint. The suit was decreed ex-parte and the

same has never been set aside. Not much dispute had been raised qua the correction of the plaint and judgment and decree. Copy of the sale deed

executed by Bhupinder Singh son of Kapoor Singh son of Kishan Singh and Kuldep Singh son of Kehar Singh son of Santa Singh (Annexure P/5)

executed in favour of the petitioners bears Khasra No. 23//24-37//4, khata No. 377/445 - 379/437. As such, the mistake which appears to be

bona-fide and clerical one requires to be rectified in the copy of the plaint as well as judgment and decree sheet. I find support to my this view

from the judgment delivered in case Surender Pal Singh Sethi vs. State of Haryana and others, 2010 (2) R.C.R. 556 wherein it was observed as

under :-

... In order to prevent the abuse of process of law and to secure the ends of justice, learned Court below should have allowed amendment in the

description of the property which has been acquired so that rightful owner should get his dues from the Government because the land has been

taken away by the Government against his wishes for which he should not be deprived of compensation at mere technicalities....

6. Since there is no dispute with regard to identification of the property including the area and boundaries, the correction is only qua the khasra

number which has been inadvertently mentioned as 23/24-377/4 in stead of 23//24, 37//4, as mentioned in the revenue record, the trial court

should have ordered such correction. Resultantly, this petition is accepted, impugned order is set aside and the application for making correction is

accepted and it is ordered that necessary correction be made in the plaint as well as judgment and decree dated 28.7.2003 passed by the Civil

Judge (Jr. Division), Ludhiana.