2025:PHHC:139493

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CR-3902-2025
Reserved on: 07.07.2025
Pronounced on: 08.10.2025

Nirmal Singh

...Petitioner

Versus

Satpal Kanwar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present:- Mr. Munish Jolly, Advocate,
for the petitioner.

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VIKAS SURI, J.

1. The challenge in this revision petition under Article 227 of the Constitution of India is to the order dated 17.03.2025 (Annexure P-16) passed by the learned Civil Judge (Junior Division), Ludhiana, whereby the review application filed by defendant Nos.1 to 4 for review of the judgment dated 14.11.2024 (Annexure P-5) has been dismissed. The primary contention raised is that the trial Court erred in allowing correction of the judgment under Section 151 and 152, Code of Civil Procedure, 1908 (for short, 'CPC'), which powers ought not to have been exercised after passing of the decree, particularly when two significant additional issues, framed as 1(c) and 1(d), were not decided in the judgment sought to be reviewed.

2. For convenience and to avoid confusion, the parties to the instant revision petition, are being referred to by their original status before the trial Court, i.e. petitioner as plaintiff, and respondent Nos.1 to 16 as defendant Nos.1 to 16.

3. Succinctly, the facts relevant for adjudication of the present petition are that the plaintiff (Nirmal Singh) filed a suit, *inter alia,* for declaration that he is owner of the suit property described in the head note of the plaint and that the sale deeds dated 04.08.1999 and 04.10.1999 executed in favour of defendant No.1, sale deeds dated 04.08.1999 and 04.10.1999 executed in favour of defendant No.2, sale deeds dated 04.08.1999 and 14.09.1999 executed in favour of defendant No.3 and sale deeds dated 04.08.1999 and 14.09.1999 executed in favour of defendant No.4, are illegal, null and void, without consideration, result of fraud and misrepresentation, and are liable to be annulled/cancelled/set aside. The plaintiff also prayed for possession of the suit property.

3.1 The suit involved multiple sale deeds of the year 1999, alleged to have been forged and procured through fraud, coercion and undue influence. Upon notice of the suit, the same was contested by the defendants by filing their written statements.

3.2 Initially, issues were framed on 31.10.2011 (Annexure P-1) and were thereafter, reframed vide order dated 31.05.2023 (Annexure P-2) at the instance of defendant Nos.1 to 4. Subsequently, on another application moved by defendant Nos.1 to 4, specific additional issues 1(c) and 1(d) were

framed vide order dated 15.07.2023 (Annexure P-3).

3.3 The supra additional issues pertain to the allegations of fraud, coercion and misrepresentation with regard to eight specific sale deed executed in the year 1999. Parties led extensive evidence, which phase extended over a decade, between 2013 and 2023. It is averred that the arguments were finally concluded on 12.11.2024 and the judgment dated 14.11.2024 was pronounced in the absence of the plaintiff and his counsel. It is alleged that the said judgment was pronounced without being written and signed, as mandated by the Civil Procedure Code, thereby raising serious concerns regarding irregularity and illegality. The plaintiff applied for certified copy of the judgment dated 14.11.2024 on 16.11.2024, but faced repeated delays in obtaining the same. It is further alleged that the judgment had not been written when it was pronounced, and that on 29.11.2024, the plaintiff made a complaint (Annexure P-7) to the Hon'ble Administrative Judge. Thereafter, the judgment was uploaded on 14.12.2024. Crucially, the judgment failed to mention or decide two additional issues 1(c) and 1(d), framed vide order dated 15.07.2023, raising serious questions since those issues concerned the very foundation of the suit and the validity of the impugned sale deeds.

3.4 On 19.12.2024, defendant Nos.1 to 4 filed a review application under Order 47 Rule 1 CPC read with Sections 114, 151 and 152 CPC seeking rectification on non-decision of the above-noticed two additional issues.

3.5 The review application was dismissed by the trial Court vide order dated 17.03.2025 (Annexure P-16), while allowing correction in the judgment to include the omitted issues, treating the omission as an accidental slip or unintentional omission.

4. Aggrieved by the aforesaid, the plaintiff-petitioner has assailed the order dated 17.03.2025 (Annexure P-16) through the present revision petition.

5. Learned counsel for the petitioner submitted that the order dated 17.03.2025 is illegal, as the power under Sections 151 and 152 CPC cannot be invoked to amend a decree after its passing, except for clerical or arithmetical mistakes. Further, it is submitted that the omission of issues 1(c) and 1(d) is a substantive legal defect, and not a clerical or accidental slip, and hence requires a fresh decision, which irregularity cannot be rectified merely by carrying out correction. It is still further submitted that the judgment dated 14.11.2024 was found to be unsigned and unwritten at the time of alleged pronouncement and on a complaint made to the learned Administration Judge, the judgment was written in haste and uploaded on 14.12.2024. Learned counsel for the petitioner has also submitted that the judgment dated 14.11.2024, which was hurriedly written, is based on the issues framed vide order dated 31.05.2023, and does not even notice the additional issues No.1(c) and 1(d), framed vide order dated 15.07.2023. The findings recorded in the judgment dated 14.11.2024 do not deal with the additional issues framed on 15.07.2023. It is further argued that the trial

Court ought not to have exercised jurisdiction under Sections 151 and 152 CPC, which allowed the trial Court to cover up illegality in the judgment. The said judgment is under examination by the Appellate Court and hence, passing of order dated 17.03.2025 would not only frustrate the appellate process but cause prejudice by hindering the appeal.

6. I have heard learned counsel for the petitioner and with his able assistance perused the record.

7. Admittedly, an application for review of the judgment dated 14.11.2024 was moved by defendant Nos.1 to 4. The head-note and prayer clause of the said application, which are extracted hereunder for reference, make it explicit that the substantive relief sought was in the nature of review:-

> "Application under Order 47 Rule 1 read with Section 114 CPC and Section 152, 151 CPC for review."

> "Hence, it is prayed that judgment and decree dated 14.11.2024 passed by this Hon'ble Court may be reviewed and the error/mistake regarding Issues No.1(c) and 1(d) may kindly be reviewed and rectified, in the interest of justice."

The above is to be appreciated in the light of the substantive averments made in the application, which are contained in para 6 and read thus:-

> "6. That by mistake and out of inadvertent error, the final issues framed on 15.07.2023 were overlooked and the issues, which have been mentioned in para no.23 of the judgment at Page no.23 are the issues framed on 31.05.2023. The same is an error apparent on the face of record and in the process this Hon'ble Court has not mentioned the issues

No.1(c) and 1(d) in the list of issues in the judgment at Page No.23."

8. It would also be gainful to refer to the provisions contained under Sections 151 and 152 CPC, to appreciate the issue arising in the present petition. Sections 151 and 152 CPC are reproduced hereunder:-

"**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."

9. A perusal of the above provisions shows that Section 151 CPC saves inherent powers of the Court to do justice in cases where no specific provision exists, whereas, Section 152 specifically permits correction of clerical or arithmetical mistakes and errors arising from accidental slips or omission in decrees or orders, at any time, either *suo moto* or on motion by a party.

10. The primary issue arising for consideration is whether the omission of mentioning/deciding issues 1(c) and 1(d) is clerical or substantive in nature.

11. Issues 1(c) and 1(d) framed vide order dated 15.07.2023 (Annexure P-3) are as under:-

> "c) Whether the sale deeds dated 04.08.1999, 04.10.1999 executed in favour of the defendant no.1, sale deeds dated 04.08.1999 and 04.10.1999 in favour of defendant no.2, sale deeds dated 04.08.1999 and 04.09.1999 in favour of defendant no.3, sale deeds dated 04.08.1999 and 04.09.1999 in favour of defendant no.4 are illegal null and void without consideration and are result of fraud, misrepresentation? OPP
>
> d) Whether the said documents are result of undue influence, coercion, fraud and misrepresentation played by the defendants no.1 to 4 alongwith defendants no.5 to 15 and the documents were never executed by the plaintiff in his sound disposing mind?OPP"

12. The above reproduced issues pertain to the allegations of fraud and plaintiff's mental soundness, an aspect which is critical to the entire suit's determination. Non-decision of these issues goes to the root of the matter and affects substantive rights of the parties. The learned trial Court, however, held that the omission was an accidental slip or an unintended omission, thereby justifying *suo motu* correction, even though the review application moved by defendant Nos.1 to 4 was dismissed.

13. It would also be pertinent to refer to the relevant paras of the judgment, which were been ordered to be corrected, vide impugned order dated 17.03.2025, besides one para of the discussion where reference to some of the issues is made. Paras 23, 27 and 28 of the judgment are reproduced hereunder:-

> "23. From the pleadings of the parties, following issues were framed:-
>
> 1. Whether the plaintiff is entitled to decree for declaration as prayed for? OPP
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> (a) Whether the plaintiff is entitled to alternative relief of

other properties, car, licensed pistol and FDR etc. as mentioned at Sr. No.(a) to (f) of Para No.25-A of the plaint? OPP

(b) Whether the plaintiff is entitled to separate possession by partition of the house of Kalka in the alternative? OPP

2. Whether the plaintiff is entitled to decree for permanent injunction as prayed for? OPP

3. Whether the plaintiff is entitled to possession of the suit property? OPP

4. Whether the plaintiff is entitled to decree for mandatory injunction as prayed for? OPP

5. Whether the suit of the plaintiff is not maintainable? OPD

6. Whether the plaintiff is estopped by his own act and conduct to challenge the sale deeds and to file the present suit ? OPD

7. Whether the defendants no.1 to 4 are the bonafide purchasers for consideration? OPD

8. Whether the suit is bad for mis-joinder and non-joinder of parties? OPD

9. Whether the plaintiff has no cause of action to file the present suit? OPD

10. Whether the defendants no.1 to 4 are the bona fide purchasers for consideration ? OPD

11. Whether the suit has been filed by the plaintiff inclusion with the daughters in law and son in law and is out come of greed? OPD

12. Whether this court has no jurisdiction in entertain and try the present suit ? OPD

13. Relief."

xxxx xxxx

"27. I have gone through the Respective submissions of both the counsels for the parties and have perused the case file meticulously. My issue wise finding is as follows:

Issue No.1, (a), 2, 3 & 4

28. Onus to prove issues no 1, (a), 2, 3 & 4 was upon plaintiff. In order to get decided these issues in his favour plaintiff has examined PW1 Harbans Singh, Clerk of

> Municipal Corporation, Ludhiana. In his testimony, he has brought the record of property No.352/J-100 B.R.S Nagar, Ludhiana. As per his testimony, the said property is standing in the name of Baljeet Singh son of Suba Singh since the year 2004. He proved copy of the said record as Ex.P1. He was cross examined by the Ld. Counsel for the defendants. In his cross examination, he has stated that he does not know when did the said property was got entered in the name of Baljeet Singh son of Suba Singh."

14. The trial Court, while considering the matter, concluded that complete and correct findings regarding the issues involved had already been recorded, in the judgment dated 14.11.2024. Hence, the non-mentioning of issues No.1(c) and 1(d) in the array of issues (in para 23 of the judgment) was merely an inadvertence, typographical mistake, accidental slip and unintentional omission. The following observations have been recorded in the order dated 17.03.2025:-

> "14. Now in the instant judgment and decree dated 14/11/2024 this court has returned findings in para No. 28 to para No. 116 regarding the pleas taken by the respondent No. 1/plaintiff in his plaint. In view of this court non-mentioning of issue number 1(c) and 1(d) in para no.23 and 27 is merely an un-intentional omission and accidental slip. In view of the aforesaid laws laid down by Hon'ble Supreme Court of India and the Hon'ble High Courts of various states (supra) this court is of opinion that there is no any legal impediment in allowing the instant application so far as it relates to section 151 and 152 of CPC. To err is human. Courts are manned by human beings. In the course of passing a judgment or order, it cannot be said that no mistake whatsoever would be committed by a Judge or a Presiding Officer. The well accepted principle is that an act of Court shall do no harm

> to the litigant. If it is brought to the notice of the Court that while passing the judgment, a mistake was committed by the Court resulting in injury and hardship to a litigant, it is the duty of the Court to correct the mistake. The basis of section 152 of CPC is founded on a maxim **"Actus Curiae Neminem Gravabit" i.e an act of court shall prejudice no man**. Accordingly instant application stands allowed. The reader of this court is directed to write issue number 1(c) and 1(d) on the last page of judgment dated 14/11/2024 and if there is no adequate space then write on a new page and give the following note underneath those issues:-
>
> Note:-After Issue No. 1 (a), issue No. 1 (c) and 1 (d) be read as part and parcel of para No. 23 and thereafter of this judgment.
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> 15. He shall attach the said new page with the aforesaid judgment. He is further directed to mention alphabet (c) and (d) after the alphabet (a) in para No. 27 of the judgment dated 14/11/2024. All the aforesaid corrections shall be carried out with red ink. The application stands disposed off. Let papers be tagged with main file and thereafter main file be consigned to record room."

15. It is settled law that the power of review enshrined under Section 47 CPC and Sections 114, 151 and 152 CPC is confined to correction of errors apparent on the face of the record and clerical mistakes. The said provisions do not contemplate rehearing or reconsideration of evidence. Substantive issues are to be decided after hearing all the parties concerned and cannot be decided by way of correction. In the present case, a perusal of para 23 of the judgment reveals that it merely narrates that, on the basis of the pleadings of the parties, the quoted issues were framed.

Apparently, the issues reproduced in the said para are those that were framed vide orders dated 31.10.2011 and 31.05.2023, whereas the issues recast vide order dated 15.07.2023, whereby specific additional issues No.1(c) and (d) were also framed, were not mentioned therein. It is conceded that the issues reproduced in para 23 of the judgment do not depict the correct position and, in fact, should have been reproduced from para 3 of the order dated 15.07.2023 (Annexure P-3). An apparent error in the narration of the factual background of the case, inasmuch as, it pertains to reproduction of the issue framed would thus, not to be substantive but a clerical, typographical omission or accidental slip. Therefore, the order dated 17.03.2025 rightly observed that omission of issue 1(c) and 1(d) was an unintentional accidental slip and hence, allowed correction of the judgment dated 14.11.2024. The said exercise of jurisdiction squarely falls within the ambit of Sections 151 and 152 CPC.

16. It is notable that Section 152 CPC not only provides for the correction of clerical or arithmetical mistakes but also covers errors arising in judgments, decrees or orders from any accidental slip or omission at any time, by the Court, either of its own motion or on the application of any of the parties. A perusal of the observations recorded in para 14 of the impugned order dated 17.03.2025 would show that the said correction has been ordered to be carried out only in paras 23 and 27 of the judgment. The discussion under the relevant issues from paras 28 to 115 have not been touched by the impugned order and hence, it cannot be inferred that the trial

Court attempted to cover-up illegality in the judgment. Non-discussion of issues No.1(c) and 1(d) in the original judgment is a material ground for challenge of the main judgment but not to set aside the order for correction of an error arising from an accidental slip or omission. The trial Court has not decided the issues afresh but only recognized that the said issues existed and were inadvertently omitted in the judgment detailing the issues. It would not be out of place to notice here that the said aspect is in the domain of the first Appellate Court and as an appeal is stated to be still pending against the judgment dated 14.11.2024, the same would be accordingly considered by the Appellate Court concerned, if so urged by any of the parties thereto.

17. The trial Court while exercising jurisdiction under Section 151 and 152 CPC has placed reliance on the following judgments in ***L. Janakirama Iyer vs. P.M. Nilakanta Iyer,*** **AIR 1962 SC 633;** ***Brahamdeo Singh vs Harmanoge Narain Singh,*** **AIR 1914 Calcutta 220; Samarendra** ***Nath Sinha and another vs. Krishna Kumar Nag*****, AIR 1967 SC 1440;** ***Nalampati Radhakrishnaiah vs. The Union Bank of India, Santharavuru, reptd. By the Branch Manager Prakasam,*** **1982(1) APLJ 66;** ***Sundaram vs. Manickam and others*****, 2010(35) RCR (Civil) 265;** and ***Kaley and others vs. Haryana State*****, 1983 PLR (P&H) 38.**

18. Learned counsel for the petitioner has placed reliance upon the judgments in ***U.P.S.R.T.C. vs. Imtiaz Hussain*****, AIR 2006 SC 649;** ***Dwarka Das vs. State of Madhya Pradesh*****, AIR 1999 SC 1031;** ***State of Punjab vs. Darshan Singh,*** **AIR 2003 SC 4179;** ***Srihari (dead) through LR. Ch.***

***Niveditha Reddy vs. Syed Maqdoom Shah and others*, 2014(4) RCR (Civil) 557;** and ***Deputy Director Land Acquisition vs. Malla Atchinaidu and others*, 2007(1) RCR (Civil) 894.**

19. The law settled in the said judgments is not in dispute. A perusal of the said decisions would show that the power vested in the Court under Section 152 CPC is not akin to that of review. However, in none of the said cases relied upon by learned counsel for the petitioner, it has been held that accidental mistakes arising from any accidental slip or omission, as in the present case, cannot be corrected in exercise of power under Sections 152 and 151 CPC. Thus, the same are not applicable in the present case and are distinguishable on facts, as such.

20. The Hon'ble Supreme Court in ***Tilak Raj vs. Baikunthi Devi,* (2010) 12 SCC 585**, has held as under:-

> "25. Since the court exists to dispense justice, any mistake which is found to be clerical in nature should be allowed to be rectified by exercising inherent power vested in the court for subserving the cause of justice. The principle behind the provision is that no party should suffer due to bona fide mistake. Whatever is intended by the court while passing the order or decree must be properly reflected therein otherwise it would only be destructive of the principle of advancing the cause of justice. In such matters, the court should not bind itself by the shackles of technicalities."

21. The petitioner's contention that the correction affects substantive right, would be better agitated in appeal, and the trial Court ought to have stayed its hands and not carried out the correction, would not

render the order dated 17.03.2025 illegal. There is no infirmity in the trial Court's exercise of inherent powers to maintain correctness of its records; rather, the said correction would assist the first Appellate Court in understanding the correct factual matrix of the case and in considering the appellant's challenge alleging absence of discussion on issues 1(c) and 1(d) in the judgment dated 14.11.2024.

22. On a conspectus of the aforesaid, no illegality or perversity has been established to warrant interference with the order dated 17.03.2025. In the absence of any jurisdictional error arising or having been pointed out, either on the basis of the facts or the settled principle of law, no ground is made out for any interference by this Court exercising the power of superintendence.

23. Accordingly, the revision petition is dismissed. However, the parties would be at liberty to pursue the matter on merits before the first Appellate Court where the main appeal is pending.

(VIKAS SURI)
JUDGE

October 08, 2025
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Whether speaking/reasoned Yes/No
Whether reportable Yes/No