
(1999) 08 AHC CK 0160
In the Allahabad High Court
Case No : Civil Revision No. 278 of 1999

Jagat Narain Tiwari

APPELLANT

Vs

State of U.P. and others

RESPONDENT

Date of Decision : 05-08-1999

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 152

Citation : (1999) 4 AWC 3095 : (1999) AWC 3095

Hon'ble Judges : P.K. Jain, J

Bench : Single Bench

Advocate : Pradeep Chauhan, for the Appellant;

Final Decision : Dismissed

Judgement

P.K. Jain, J.—Heard learned counsel for the parties. The ex parte decree for rent and eviction was passed against the revisionist. In the execution proceedings, an application for amendment in the plaint was moved on the ground that the boundaries of the suit property were inadvertently wrongly stated in the plaint. That application has been allowed by the trial court. The present revision is against the said order.

2. The sole question that arises for consideration is whether in the execution proceedings, amendment in the plaint can be allowed u/s 152, C.P.C. or not. Court below has relied upon two decisions of this Court In Bhairon Lal Vs. Harbans Chaudhary and Others, .

3. The learned counsel for the revisionist submits that an amendment is not permissible u/s 152, C.P.C. Only clerical errors can be corrected in the judgment and decree.

4. Copy of the plaint has been filed as Annexure-1 to the affidavit in which Municipal No. of the suit property Is described as 117/111, M-Block, Kaka Dev, Kanpur. In boundaries at the foot of the plaint. It appears that the description of the properties abounding the suit property was correctly given, but the directions

East, West, Etc. were wrongly stated. Case is covered by a Full Bench decision of this Court in Ganesh Vs. Sri Ram Lalaji Mahraj Birajman Mandir and Others, , wherein this Court has held that "in the instant case, as already mentioned, no dispute at any time was raised that the suit properly and the property in respect of which the decree was passed is not identifiable on the spot or it is a property different from the property which was purchased by the plaintiff from Panna Lal and for the delivery of which the suit was filed. In the circumstances, in our opinion, ends of justice require that the two applications should be allowed and the amendments prayed for, be made."

This Court had considered the decision of the Supreme Court in L. Janakirama Iyer and Others Vs. P.M. Nilakanta Iyer and Others, , while deciding case of Ganesh.

5. In this view of matter, there is no merit in this revision. The revision is dismissed.