

(2013) 09 P&H CK 0107
In the Punjab And Haryana At Chandigarh
Case No : CR No. 5544 of 2013

Raj Wati

APPELLANT

Vs

Brahmanand

RESPONDENT

Date of Decision : 13-09-2013

Acts Referred:

Citation : (2014) 174 PLR 225

Hon'ble Judges : Laxmi Narain Mittal, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Laxmi Narain Mittal, J.—Plaintiff-Raj Wati has filed this revision petition under Article 227 of the Constitution of India, impugning order

dated 03.07.2013 Annexure P-6 passed by the trial Court thereby allowing application Annexure P-4 filed by defendant-respondent for

correction of his affidavit Annexure P-3 of his examination-in-chief as witness. It is unfortunate litigation between sister (petitioner) and brother

(respondent). Plaintiff-petitioner has claimed half share in the tenancy of the suit land, which was in the possession of Mohar Singh since deceased

(father of both the parties) as tenant, being one of the two legal heirs of Mohar Singh, the respondent-defendant being the other legal heir.

However, the defendant has pleaded that tenancy is heritable by only male member and therefore, defendant claimed to be sole heir of his father

qua tenancy over the suit land and claimed to be in possession of the entire suit land.

2. The defendant in his application Annexure P-4 alleged that in his affidavit Annexure P-3, he inadvertently mentioned himself to be in possession

of half share of the suit land and the same is to be corrected as full share or the entire suit land.

3. The plaintiff by filing reply Annexure P-5 opposed the aforesaid application and alleged that the defendant cannot change his statement.

4. Learned trial Court vide impugned order Annexure P-6 has allowed application Annexure P-4 filed by the defendant, subject to payment of Rs.

500/- as costs. Feeling aggrieved, plaintiff has filed this revision petition to challenge the aforesaid order.

5. I have heard counsel for the petitioner and perused the case file.

6. Counsel for the petitioner reiterated that the defendant respondent could not be permitted to change his statement made in affidavit Annexure P-

3 as examination-in-chief as witness. The contention cannot be accepted because perusal of written statement Annexure P-2 filed by the defendant

reveals that he categorically pleaded himself to be in possession of the entire suit land and not half share in the suit land. It is thus apparent that

mentioning of half share in affidavit Annexure P-3 was only inadvertent or clerical or typographical error. The plaintiff has been ordered to be

compensated by way of costs. However, the costs amount needs to be enhanced from Rs. 500/- to Rs. 5,000/-. Except to this extent, there is no

infirmity, much less perversity, illegality or jurisdictional error in impugned order of the trial Court so as to call for interference by this Court in

exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

7. Here it may be mentioned that daily, numerous clerical or typographical errors are being noticed in the paper books. However, a party cannot

be made to suffer due to such typographical or inadvertent errors. Even in the instant revision petition, there is a blunder by way of typographical

error inasmuch as in the title of the revision petition, the petitioner Raj Wati has mentioned herself to be wife of Mohar Singh although the petitioner

is admittedly daughter of Mohar Singh. There is also similar error in title in typed copy of plaint Annexure P-1 and typed copy of impugned order

Annexure P-6.

8. Clerical or typographical errors can always be allowed to be corrected and the other party can be compensated by costs. Inherent power u/s

151 of the CPC can always be used for this purpose for the ends of justice and to prevent miscarriage of justice because the said power has been

vested inter alia for such matters.

9. I intend to dispose of the instant revision petition without issuing notice to defendant/respondent so as to avoid delay in disposal of the suit and

also to save the respondent of the expenses he may have to incur in engaging counsel for the revision petition if notice thereof is issued to him.

Resultantly, instant revision petition is dismissed in limine except to the extent of enhancement of costs amount from Rs. 500/- to Rs. 5000/-

payable by defendant-responder to the plaintiff-petitioner.