



( 2025:HHC:21642 )

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**

**CMPMO No.678 of 2022**

**Date of Decision : 07.07.2025**

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**Partap Chand**

**..... Petitioner**

***Versus***

**Tarsem Chand (deceased) through Legal heirs**

**.....Respondents**

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*Coram:*

**The Hon'ble Mr. Justice Bipin Chander Negi, Judge**

*Whether approved for reporting?<sup>1</sup>*

For the petitioner : Mr. Parav Sharma and Mr. Shekhar Badola,  
Advocates.

For the respondents : Mr. Atharv Sharma, Advocate.

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**Bipin Chander Negi, Judge (oral)**

The present petition has been preferred against impugned order dated 10.10.2022, passed by the Executing Court, whereby an application filed under Section 152 of the Civil Procedure Code filed by the present respondent/Decree Holder, has been allowed and rectification in the decree qua Khasra number of the suit property has been permitted to be made.

2. Heard learned counsel for the parties and perused the pleadings.



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3. The present respondent/Decree Holder had filed a suit for specific performance. The suit so filed was with respect to the specific performance of an Agreement dated 19.10.2006, whereby the present petitioner had agreed to sell the suit land. The description of the suit land had been given in the plaint based on Jamabandi provided by the Revenue Official (concerned Patwari) in the year, 2001-02. IN the Jamabandi so provided, the suit has been prescribed as Khasra No.668.

4. The suit for specific performance was filed on 25.04.2007. It was finally decreed on 08.05.2012. From perusal of the judgment passed by the Trial Court, it is evident that only dispute raised by the present petitioner/Judgment Debtor was with respect to the agreement to sell sought to be specifically enforced. There was no dispute with respect to the description of the property.

5. In the aforesaid facts and circumstances, the Decree Sheet prepared defined the property qua which the suit for specific performance had been decreed to be Khasra No.668.

6. The discrepancy in the Khasra number was noticed once the execution proceedings were set into motion. On noticing the discrepancy, an appropriate application was filed by the present respondent/Decree Holder for rectification of the Khasra number as Khasra No.688 and not 668, qua which the suit had been decreed. The mistake qua the description of the suit property was attributable to the revenue official



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(concerned Patwari) who had supplied the Jamabandi in the year, 2001-02, on the basis of which the suit was filed.

7. The Executing Court allowed the application and permitted the change to be incorporated.

8. In exactly the same situation, the Apex Court in ***Tilak Raj vs. Baikunthi Devi (dead) by LRs., 2010 (12) SCC 585***, has authoritatively pronounced that the mistake, in the case at hand, is of a clerical nature which can be corrected by applying the provisions of Section 152 of the Civil Procedure Code. The relevant paragraphs are reproduced herein below for ready reference:-

*“21. We have perused the submissions made by the counsel appearing for both the parties and scrutinized the whole record. On appreciation of the records, we are of the opinion that the Patwari had issued a wrong certified copy of Jamabandi incorporating therein Khasra No. 25R/52 against Khewat No. 50 Khatoni No. 60 of jamabandi for the year 1966-67 of village Mojowal. In fact there was no Khasra No. 25R/52 whereas it was actually 26R/52. On the basis of and on account of such wrong supply of materials in the certified copy of Jamabandi, the appellant had sued by wrongly mentioning identity of land as Khasra No. 25R/52.*

*22. There was no dispute that the parties in the earlier suit were agitating regarding the Estate of Datta Ram. In that view of the matter the appellant was not at fault at all for suing the land as mentioned in the para A of the plaint filed in suit no. 149 of 1979. Actually, this was a mistake on the part of the Patwari or some Revenue Officer, who had issued the aforesaid Khasra Girdawari. It was nowhere disputed that Khasra No. 26R/52 was owned by Datta Ram and there was no Khasra Number described as 25R/52. Moreover, no rebuttal on behalf of the respondent was made in the written*



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*submissions in Civil Suit No. 306 of 1969 or otherwise that it was not Khasra No. 25R/52.*

23. *The aforesaid mistake was of clerical nature which could have been corrected by applying the provisions of Section 152 of the CPC. Counsel appearing for the respondents also during his submissions fairly accepted the aforesaid position. The remedy that was available to the appellant was to file an application seeking for amendment of the decree by way of correcting the clerical mistake in respect of Khasra Number. Since the mistake was clerical in nature and the appellant being not responsible for the said clerical mistake which had occurred due to wrong recording of Khasra Number in Khasra Girdawari, we find no reason as to why such a genuine and bona fide mistake cannot be allowed to be corrected by exercising the powers under Section 152 of the CPC.*

24. *In K. Rajamouli vs. A.V.K.N. Swamy, (2001) 5 SCC 37, this Court held as follows:-*

*"6. Section 152 provides that a clerical or arithmetical mistake 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".*

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 sub-serving 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 courts should not bind itself by the shackles of technicalities.*



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26. *In S. Satnam Singh and Ors. vs. Surender Kaur and Anr.*, reported in 2008(15) SCLAE 626 Court held as follows:-

"23. The court may not have a suo motu power to amend a decree but the same would not mean that the court cannot rectify a mistake. If a property was subject matter of pleadings and the court did not frame an issue which it ought to have done, it can, at a later stage, when pointed out, may amend the decree.

24. The power of amendment, in a case of this nature, as notice hereinbefore, would not only be dependent upon the power of the court but also the principle that a court shall always be ready and willing to rectify the mistake it has committed."

27. We feel that if we direct the appellant to seek remedy under the provisions of Section 152 of the CPC, it will only delay and prolong the litigation between the parties. In order to cut short the litigation and to save precious time of the court as also to give quietus to the entire dispute, we direct in exercise of the powers under Section 152 of the CPC that the decree be corrected by giving the correct Khasra No. 26R/52 in place of Khasra Number 25R/52. Having decided so, in the aforesaid manner, we are not required to go into the arguments advanced before us and adjudicate as to whether Order 2 Rule 2 CPC would be applicable in the facts and circumstances of the present case and whether or not the subsequent suit was barred."

9. This Court has a restricted and limited jurisdiction to interfere under the correctional jurisdiction vested in it in terms of Article 227 of the Constitution of India, except to set right a grave dereliction of duty or flagrant abuse or violation of fundamental principle of law or justice, miscarriage of justice, un-reasonable conclusion and perversity. On the other hand in the supervisory jurisdiction reviewing or re-weighting evidence, substituting conclusions, correcting every error of fact or even a



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legal flaw when the final finding is justified or can be supported is not permissible. (See ***Sadhana Lodh vs. National Insurance Co. Limited and another, (2003) 3 SCC 524 and Garment Craft vs. Prakash Chand Goel, (2022) 4 SCC 181***).

10. In the case at hand, for the reasons stated herein above, I am of the considered view that no ground is made out in the present petition for invoking the jurisdiction of this Court under Article 227 of the Constitution of India.

11. In view of above terms, I find no merit in the present petition and the same is dismissed accordingly. Pending miscellaneous application(s), if any, shall also stand disposed of.

The parties are directed to appear before the Trial Court on **17.07.2025**.

**July 07, 2025** (KS)

**( Bipin Chander Negi )**  
**Judge**