



352                    **IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**Reserved on: 21.04.2025  
Pronounced on: 04.07.2025**

**1. CR-97-2025 (O&M)**

Aradhna Jain		...Petitioner
	Versus	
Dinesh Kumar Jain and Others		...Respondents

**2. CR-1990-2025 (O&M)**

Anshul Jain and Others		...Petitioners
Dinesh Kumar Jain and Others		...Respondents

**CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL**

**Present:** Mr. Amit Jhanji, Senior Advocate with  
Ms. Niti Jain, Advocate and  
Ms. Nandita Verma, Advocate  
for the petitioner in CR No.97 of 2025.

Ms. Ananya Ghosh, Advocate and  
Mr. Amandeep Singh, Advocate  
for the petitioners in CR No.1990 of 2025.

Ms. Kiran Bala Jain, Advocate and  
Ms. Anjali Rani, Advocate  
for respondents No.2(i) and 2(iii) and 4.

Mr. Amit Jain, Senior Advocate with  
Mr. Sudhir Paruthi, Advocate  
for LRs of respondent No.9.

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**VIKRAM AGGARWAL, J**

1.            The aforesaid revision petitions shall be decided by way of this common judgment, for, challenge in both revision petitions is to the order dated 09.12.2024 (Annexure P-1) passed by the Court of learned Civil Judge (Junior Division), Jalandhar vide which two applications were decided. The first application preferred under Section 152/153 of the Code of Civil Procedure, 1908 (for short 'CPC') for correction of Schedule A forming part of the preliminary decree dated 29.03.1985 was allowed. The second application moved by the present petitioner under Section 151 CPC seeking directions that whenever any

application is filed by the plaintiff *qua* the property in question, due notice be given to the applicants before adjudicating on any such application was dismissed.

2. Challenge has also been laid to the order dated 23.12.2024 (Annexure P-3) vide which the report of the Local Commissioner appointed vide order dated 23.05.2024 to visit the plot No.57, Block-C, Veer Nagar, Jain Colony, Delhi was sought and parties were directed to remain present at the time of visit of the Local Commissioner at the spot. Whereas **CR No.97 of 2025** has been preferred by Ms. Aradhna Jain who is stated to be the owner of Upper Ground Floor and Fourth Floor of property bearing No.57, Veer Nagar, Jain Colony, Delhi, **CR No.1990 of 2025** has been filed by Mr. Anshul Jain, Mr. Anuj Jain and Ms. Anita Jain who are the owners of First and Second Floor of the said property.

3. Facts shall essentially be derived from **CR No.97 of 2025**. However, wherever necessary, facts as regards **CR No.1990 of 2025** shall also be mentioned. One Sh. Vidya Parkash son of Sh. Jit Mal Jain filed a suit (Annexure P-14) for partition of 7/30 shares of Joint Hindu Family Property mentioned in Schedule A and Schedule B thereof and for rendition of accounts of the said Joint Hindu Family Property. Schedule A mentioned immovable properties whereas Schedule B mentioned movable properties and Schedule C mentioned business concerns. Schedule A listed 17 properties out of which, the present *lis* is concerned with property mentioned at Serial No.16 i.e. Plot No.51, Veer Colony, Delhi. The suit was decreed by the Court of learned Sub-Judge, Jalandhar vide judgment and decree dated 29.03.1985 (Annexure P-17) and a preliminary decree for partition of the properties mentioned in Schedule A and Schedule B was passed. This decree was upheld in First Appeal. **RSA No.786 of 2010** titled as '**Rajinder Kumar Vs. Smt. Satya Wati @ Satya and Others**' was decided on 06.07.2015 (Annexure P-18) and the decree was upheld. The Special Leave Petition against the said decision of the High Court was dismissed on 29.03.2016 (Annexure P-19).

4. After the dismissal of the SLP, an application (Annexure P-20) for the grant of final decree and partition of properties mentioned in Schedule A, B and C was filed. Vide order dated 23.05.2024 (Annexure P-22), Sh. Anil Verma, Advocate who had been appointed as Local Commissioner on 15.09.2022 was directed to visit the property for inspection to suggest the mode of partition. It appears and in fact it is the case of the petitioners that after the passing of this order, the petitioners came to know that the property owned by them i.e. Plot No.57, Veer Nagar, Jain Colony, Delhi (for short 'property in dispute') was a part of the partition suit. It is their case that in Schedule A, the number of the property was mentioned as 51 and, therefore, there was no occasion to involve property No.57, Veer Nagar, Jain Colony, Delhi in the same.

5. The case set up by the petitioner Aradhna Jain is that a Sub-Lease deed dated 20.12.1967 (Annexure P-4) had been executed in favour of one Sh. Surinder Kumar as regards the property in dispute. Requisite formalities in favour Sh. Surinder Kumar were carried out.

6. Sh. Surinder Kumar executed a General Power of Attorney on 03.02.1986 (Annexure P-6) as regards the property in dispute in favour of one Sh. Vinod Jain. An agreement to sell dated 04.12.1985 (Annexure P-7) was also executed by Sh. Surinder Kumar in favour of Smt. Sudha Jain, wife of Sh. Vinod Jain with regard to property in dispute. A Special Power of Attorney dated 03.02.1986 (Annexure P-8) executed in favour of Sh. Vinod Jain and a Will dated 03.02.1986 was also executed in favour of Smt. Sudha Jain, wife of Sh. Vinod Jain. Sh. Surinder Kumar is stated to have expired whereafter probate was granted in favour Sh. Vinod Jain on 24.12.1986.

7. Sh. Vinod Jain and Smt. Sudha Jain executed an agreement to sell dated 16.09.1999 in favour of Sh. Khairati Ram Jain as regards the Second Floor of the property in dispute (Annexure P-10). Another General Power of Attorney

was executed by Sh. Vinod Jain in favour of Smt. Kailash Wati Jain, wife of Sh. Khairati Ram Jain and a Will was executed by Smt. Sudha Jain as regards the First Floor in favour of Smt. Kailash Wati Jain. Many such other documents were executed and finally conveyance deed dated 01.06.2001 was executed between the Delhi Development Authority and Sh. Surinder Kumar through Attorneys Sh. Khairati Ram Jain and Smt. Kailash Wati Jain Jain, Aradhna Jain etc. Sh. Khairati Ram Jain and Smt. Kailash Wati Jain executed a release deed (Annexure P-12) in favour of the petitioner Aradhna Jain on 30.01.2002 and mutations etc. were also carried out.

8. The case of the petitioner is that in the Schedule A, the property at serial No.16 was mentioned as 51, Veer Colony, Delhi and not Plot No.57, Veer Nagar, Jain Colony, Delhi and, therefore, the petitioner had no occasion or reason to doubt the validity of the title passed to her. It is the case of the petitioner that it is only when the Local Commissioner visited the spot that it came to her knowledge that the property in dispute was being projected to be a part of Schedule A and that an application moved under Section 152/153 for correction had been allowed. It was under these circumstances that an application under Section 151 CPC was moved which was dismissed.

9. Learned counsel for the parties were heard.

10. Sh. Amit Jhanji, learned Senior counsel representing the petitioner in **CR No.97 of 2025** and Ms. Ananya Ghosh, learned counsel representing the petitioners in **CR No.1990 of 2025** strenuously urged that the property in dispute was not a part of Schedule A and, therefore, the petitioners are *bona fide* purchasers of the property in dispute for consideration without notice of any litigation and the sale in their favour cannot, by any stretch of imagination, be stated to be hit by the principles of *lis pendens*. Learned counsel referred to all

documents placed on record and made strenuous efforts to convince the Court that their title would not be affected.

11. It was submitted that under Section 152/153 CPC, correction in the Schedule A could not have been ordered to be made without there being a corresponding amendment in the plaint. It was submitted that the only remedy was, therefore, to seek amendment in the plaint rather than seeking correction in the Schedule.

12. Referring to the plaint (Annexure P-4), it was pointed out that defendant No.10 Sh. Surinder Kumar was the predecessor in interest of the petitioner and Sh. Surinder Kumar contested the suit on merits by way of his written statement (Annexure P-15). An application under Order 11 Rule 14 CPC was moved by the plaintiff followed by certain other applications after which the suit was decreed on 29.03.1985. Reference was made to issues No.6 and 18 (Page Nos.207 and 209 of the paper book). It was submitted that a specific stand had been taken by Sh. Surinder Kumar that the property in dispute was his exclusive property.

13. It was submitted that once that there was no decree qua the property in dispute, the sale in favour of the petitioner would not be hit by the principles of *lis pendens* and the petitioner would be taken to be a *bona fide* purchaser of the property in dispute for consideration without notice of any litigation.

14. In support of his contentions, Mr. Amit Jhanji, learned Senior counsel places reliance upon the judgments passed by the Supreme Court of India in the cases of '*U.P. SRTC Vs. Imtiaz Hussain*', (2006) 1 SCC 380, '*Dwarka Das Vs. State of M.P. and Another*', (1999) 3 SCC 500 and '*Jayalakshni Coelho Vs. Oswald Joseph Coelho*', (2001) 4 SCC 181, judgments passed by this Court in the cases of '*Gita Ram Kalsy Vs. Arjan Singh Kalsy and Others*' (RSA No.2031 of 1978, decided on 16.02.1996) and '*Jagdish Chand Gupta and Another Vs. Dr.*

*Rajinder Parshad and Others'* (CR No.2570 of 2000, decided on 20.03.2002), judgment passed by the High Court of Orissa : Cuttack in the case of '*Netrananda Dalai Vs. Ratnabati Nayak (dead) and Another'* (W.P. (C) No.12357 of 2008, decided on 16.07.2016) as also the judgment passed by the High Court of Madras in the case of '*Devarajan and Others Vs. C.P. Mythili and Others'*, 2020 SCC Online Mad 16449.

15. In support of her contentions, Ms. Ananya Ghosh, learned counsel places reliance upon the judgments passed by the Supreme Court of India in the cases of '*S. Satnam Singh and Others Vs. Surender Kaur and Another'*, (2009) 2 SCC 562 and '*Crystal Developers Vs. Asha Lata Ghosh (Smt) (Dead) Through LRs and Others'*, (2005) 9 SCC 375 as also the judgment passed by the Allahabad High Court in the case of '*Wali Bandi Bibi Vs. Tabeya Bibi'*, 1919 SCC Online All 282.

16. Mr. Amit Jain, learned Senior counsel representing the LRs of respondent No.9 submitted that no illegality was committed by the Court concerned in allowing the application under Sections 152/153 CPC. Learned Senior counsel referred to the provisions of Sections 152/153 CPC and submitted that the Court was duly authorized to order correction in the Schedule A. Reference was made to the written statement submitted by Sh. Surinder Kumar wherein he had specifically mentioned about being owner of plot No.57, Veer Nagar, Jain Colony, Delhi.

17. It was further submitted that three orders have been challenged by way of one revision petition which is not permissible and, therefore, on this ground alone, the revision petition deserves to be dismissed.

18. It was further submitted that the remedy, if any with the petitioners was to move an application under Order 22 Rule 10 CPC and not to file the revision petition against the order vide which the application under Section

152/153 CPC was allowed. In support of his contentions, learned Senior counsel placed reliance upon the judgments passed by the Supreme Court of India in the cases of *Surjit Singh Vs. Harbans Singh 1996 AIR (SC) 135*, *Chandier Bhan (D) Through LR Sher Singh Vs. Mukhtiar Singh and Others 2024 (3) RCR (Civil) 141* and *Usha Sinha Vs. Dina Ram and others 2008 (3) RCR (Civil) 145* as also the judgments passed by the Coordinate Benches of this Court in the cases of *Shri Jai Singh Vs. Sardar Singh and others 2009 (5) RCR (Civil) 723*, *Pritam Singh Vs. P.Didar Singh and another 1976 RLR 586*, *Saudagar Singh versus Amir Singh and others 2009 (4) RCR (Civil) 638*, *Gulzara Singh and others versus Devinder Singh and others 2004 (3) PLR 330* and *The Punjab Wakf Board, Chandigarh versus Bakshish Singh 2021 (2) LAR 537* and *Piara Singh son of Karam Singh Vs. Baljinder Singh son of Karam Singh 2015 (3) RCR (Civil) 73*.

19. I have considered the submissions made by learned counsel for the parties and have perused the paper books.

20. Section 152 CPC provides for amendment of judgments, decrees or orders whereas Section 153 provides for general power to amend;

*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 to 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 proceeding 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 proceeding.*

21. Concededly, Suit No.114 of 1982 (Annexure P-14) was instituted by one Vidya Parkash Jain against Charanji Lal Jain and others including Surender Kumar son of Charanji Lal Jain (defendant No.10) for possession by partition of 7/30 shares of the Joint Hindu Family property mentioned in Schedule A & B. Still further, it is an admitted fact that the said proceedings have become final after preliminary decree for partition having been passed vide judgment and decree dated 29.03.1985 (Annexure P-17) and Special Leave Petition having been dismissed on 29.03.2016.

22. Schedule A attached with the plaint gave the details of immovable properties which included the property in question at Serial No.16 and mentioned as Plot No.51, Vir Colony, Delhi. The written statement of defendant No.10 Surender Kumar, who was the owner of the said property is on record as Annexure P-15 wherein in the preliminary objections itself, he states that he is the owner of Plot No.57, Vir Colony, Delhi. From a perusal of the plaint, written statements, judgments passed in the said suit etc., it emerges that a typographical error crept in while drafting the Schedule A and instead of Plot No.57, Veer Colony, Delhi, it was mentioned as Plot No.51, Veer Colony, Delhi.

23. The error came to notice when an application for final decree was passed and notices were issued to the petitioners. Admittedly, the petitioners had become owners of different floors of Plot No.57 during the pendency of the partition proceedings. Today, to contend that they were not aware of the proceedings as in the plaint, the number of the properties mentioned as 51 is not acceptable especially at this stage. In the considered opinion of this Court, the trial Court committed no illegality by allowing the application under Sections 152-153 CPC for correction of the property from No.51 to No.57 in Schedule A. It has to be borne in mind that the duty of a Court is to do substantial justice and to not

non-suit parties on technicalities. Still further, nobody can be permitted to take undue advantage or benefit of some typographical/technical error in the proceedings. The remedy, if any, with the petitioners was to institute a petition under Order 22 Rule 10 CPC before the Court concerned rather than moving an application that before passing any order on any application, notice be issued to them. The said application was rightly dismissed by the trial Court.

24. It is to be borne in mind that partition proceedings commenced way back in the year 1982 and they became final from the Supreme Court of India in 2016 only to run into rough weather again on technical issues raised by the petitioners.

25. In the case of *Mohinder Singh and Ors. vs. Teja Singh and Ors.* AIR 1979 P&H 47, a suit for possession was filed which was decreed on 31.05.1973. In the execution proceedings, warrant of possession was issued but could not be executed as *khasra* number was not correctly recorded in the decree sheet. The decree holders filed an application before the Executing Court for the correction of *khasra* number and consequent issuance of a fresh warrant. It was, however, found that *khasra* number was correctly mentioned in the decree sheet but was incorrectly mentioned in the plaint and the number mentioned in the decree sheet was as mentioned in the plaint. Accordingly, a prayer was made for correction in the plaint and consequently in the judgment and decree. The said prayer was contested on the ground that under Section 152 CPC, only corrections of clerical mistakes in the judgment and decree sheet could be made and mistakes occurring in pleadings could not be corrected. This contention was negated by the Executing Court and the application was allowed leading to the filing of a civil revision before this Court. While examining the provisions of Section 152 CPC and the law on the subject, it was held by a Coordinate Bench of this Court that

the mistake in the judgment and decree occurred due to an accidental slip in the plaint. It was held that there was no doubt about the identity of the land in dispute and, therefore, the correction would not affect its identity. It was, therefore, in the interest of justice that the necessary correction be made in the plaint, the judgment and the decree under Section 152 CPC;

*"8. Section [152](#), Civil Procedure Code, gives power to rectify any mistake in the judgment, decree or order of errors arising therein from accident slip or omission and in my opinion it must include an accidental slip or omission traceable to the conduct of the parties themselves. No doubt the Court cannot go into the disputed questions regarding the principle in dispute, but if a mistake is so palpable that nobody can possibly have any doubt as to what the parties meant or what the court meant when it passed judgment, decree of order, such correction can be made even under Section [152](#), Civil Procedure Code. In *Bela Devi v. Bon Behary Roy and others*, AIR 1952 Calcutta 86, it has been observed that :*

*"A mistake made by the parties in a deed upon which the suit is founded, and repeated in the judgment, decree or order, may or may not be an 'accidental slip or omission'. Where it is clear, that such is the case Court can set it right. In doing so, what is going to be rectified is the judgment, decree or order, and it is not at all necessary to rectify either the pleading or deed. In making such corrections, however, the Court can only proceed on the footing that there could be no reasonable doubt as to what it really intended there could be no reasonable doubt as to what is really intended to say in its judgment, decree or order. It cannot go in to any disputed questions. If there is a particular description of a property in a deed, and a suit has been instituted on the strength of that description, and a decree passed it is not permissible in proceedings under Section 152 to go in to disputed questions as to what property was intended to be dealt with by the parties in the deed. But if the mistake is so palpable that*

*nobody can possibly have any doubt as to what the parties meant or what the court meant when it passed its judgment, decree or order, the Court has power to correct the judgment, decree or order which has repeated the mistake. Apart from this exceptional case the Court cannot correct errors anterior to the proceedings before it. For such a purpose, the proper proceeding is by way of a suit under section [31](#), Specific Relief Act."*

9. *In Ghulam Ahmad and another v. Khizar Joo and others , AIR 1960 Jammu and Kashmir 37, plot of land was correctly described except in regard to survey number and it was held that :*

*"Wherein the plaint, the plan attached to it and the decree the property was correctly described by metes and bounds in all the particulars, except in one particular, namely that of correct survey number, and the correction of the survey number would not affect the identity of the plot, it is a fit case where the Court should under Section 52, allow amendment of the survey number in the decree."*

10. *In Shahzad Khan v. Pt. Sheo Kumar, AIR 1957 Allahabad 133, V.D. Bhargava, J. observed as under :*

*"Under Section 152, it is open to the appellate Court to correct mistakes and do justice in the case. The Court can under that section amend a clerical error in a decree although the error may have occurred on account of a mistake of the parties themselves in their pleadings and this mistake in the decree was on account of its being copied from the plaint. In such cases it is not necessary to amend the plaint itself. It is enough to amend the decree."*

11. *In Lakshmi Nath Sarma Thakur v. Ghanakanti Kalitani, ILR 1951 Calcutta II, 407, it has been held that :*

*"Where as a result of mutual mistake, a wrong plot number was inserted in the plaint, but the parties knew about the real subject-matter and rights of third parties had not intervened,*

*the Court has power to amend the decree by substituting the correct plot number."*

*12. In Appat Krishna Poduval v. Lakshmi Nathiar and other, AIR 1950 Madras 751, also in similar circumstances, the observation was made as under (at p.752):*

*"Where an application is filed for correction of an error as regards the survey numbers of an item of property in the plaint schedule and the decree schedule and there is no dispute as regards the identity of the property or boundaries to it, the amendment may be allowed under Section 152. The fact that the assignment deed of the property also has the same errors cannot disentitle the applicants to have the errors set right if they are entitled to it under the Code. So, also, the amendment cannot be refused on the ground that the decree sought to be amended is barred by limitation."*

*13. In the instant case, the mistake in the judgment and the decree, occurred due to an accidental slip, by writing khasra No. '20' instead of khasra No. '24' in the plaint and its notice was not taken even by the defendants while contesting the suit. Infact there was no about the identity of the land in dispute, as the same had been kept for establishing a school. The correction of the khasra number, thus will not affect the identity of the field in dispute, Justice, therefore, requires that the necessary correction be made in the plaint, judgment and decree, under Section [152](#), Civil Procedure Code. Thus I do not see any illegality in the order under revision. The result is that this civil revision petition is dismissed. No order as to costs."*

A similar view was taken by the Supreme Court of India in the case of *Pratibha Singh and Anr. vs. Shanti Devi Prasad and Anr. AIR 2003 Supreme Court 643*;

*"When the suit as to immovable property has been decreed and the property is not definitely identified, the defect in the court record*

*caused by overlooking of provisions contained in Order 7 Rule 3 and Order 20 Rule 3 of the CPC is capable of being cured. After all a successful plaintiff should not be deprived of the fruits of decree. Resort can be had to Section 152 or Section 47 of the CPC depending on the facts and circumstances of each case - which of the two provisions would be more appropriate, just and convenient to invoke. Being an inadvertent error, not affecting the merits of the case, it may be corrected under Section 152 of the CPC by the Court which passed the decree by supplying the omission. Alternatively, the exact description of decretal property may be ascertained by the Executing Court as a question relating to execution, discharge or satisfaction of decree within the meaning of Section 47 CPC. A decree of a competent Court should not, as far as practicable, be allowed to be defeated on account of an accidental slip or omission. In the facts and circumstances of the present case we think it would be more appropriate to invoke Section 47 of the Civil Procedure Code.*

26. Yet another identical view was taken by a Coordinate Bench of this Court in the case of *Shri Jai Singh versus Sardar Singh and others* (supra). In that case also, correction in the plaint was sought after the suit had been allowed. After examining the law on the subject, the Coordinate Bench, while discussing the scope of Section 152 CPC, allowed the application.

27. A Division Bench of this Court held in the case of *Pritam Singh versus P.Didar Singh and another* (supra) that a Court is empowered to amend clerical errors in a decree under Section 152 CPC even if the error emanates from pleadings. Reference can also be made to the judgments of Coordinate Benches of this Court in the cases of *Saudagar Singh versus Amir Singh and others*, *Gulzara Singh and others versus Devinder Singh and others* and *The Punjab Wakf Board, Chandigarh versus Bakshish Singh* (supra) wherein also a similar view was taken.

28. It has to be borne in mind that primarily we are dealing with the order allowing the application under Section 152 CPC and not with the rights of the petitioners which they would be free to agitate before the Court concerned in appropriate proceedings including in an application under Order 22 Rule 10 CPC. It would, therefore, not be appropriate for this Court to comment upon the issue of *lis pendens* or the validity of the claim of the petitioners who claim to be bonafide purchasers for consideration without notice of any proceedings.

29. I have gone through the judgments relied upon by learned counsel for the petitioners. In view of the judgments referred to in the preceding paragraphs and the categorical view taken therein coupled with the fact that at this stage, this Court is not commenting upon the merits of the claim of the petitioners, the judgments would not come to the aid of the petitioners. Even if the said judgments are considered wherein it has been held that Section 152 CPC cannot be invoked for correction of errors apart from those in judgments and decrees, though they had been given in the particular facts of those cases, Section 153 can always be invoked by a Court to do substantial justice.

That being so, I do not find any merit in the present revision petitions and the same are accordingly dismissed.

Pending application(s), if any, shall stand disposed of accordingly.

04.07.2025

(VIKRAM AGGARWAL)

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**JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No