

In The Court of Commissioner, Saran Division, Chapra

Misc. Appeal No. 239/2013

Hari Narayan Singh
Vrs.
State of Bihar

ORDER

1-6-2016-

The instant appeal petition is directed against the impugned order passed by D.M. Siwan in Misc. case No. 186/2012-13 whereby and whereunder the petitioner's prayer filed before D.M. Siwan u/s 397,399 Cr.P.C. for amendment in the final order of ADM, Siwan dt. 06.06.1998.

The brief facts of the case of the petitioner as stated in his memo of appeal petition is that the petitioner had filed a petition for fixation of rent for certain area of land before C.O. and the case came upto ADM Siwan who in his order dt. 06.06.1998 mentioned in place of 3 bigha 3 katha 18 dhur due to pen mistake wrote 1 bigha 3 katha 18 dhur and subsequently the petition filed by the petitioner for the correction of the same before ADM and D.M. Siwan has been rejected. This has led to coming up of this case before this Court.

Heard the learned counsel for the parties.

The learned counsel for the petitioner in his brief argument submitted that the learned Courts below have passed the order in a mechanical way. He further submitted that there is a settled principle of law that in any judgment the slip of pen, clerical mistake or mathematical mistake may be corrected holding that any order is passed by a Court and not by individual. He lastly prayed that the impugned order of D.M. Siwan be set aside and a direction be given for the correction in the order of ADM dated 06.06.1998.

The learned G.P. appearing on behalf of the state submitted that u/s 152 C.P.C. clerical or arithmetical mistake in judgment, decree or order arising therein from any accidental slip or omission may at any time be corrected by the Court either of its motion or on the application of any of the parties. He further submitted that the learned ADM Siwan may be directed to correct the clerical or arithmetical mistake passed in his order.

Considering the facts and circumstances of the case, material available on records and pleadings advanced by the parties, it is seen that the petitioner has approached this Court with a limited prayer that a direction be given to the ADM, Siwan to correct the error crept in the final order of ADM Siwan dt. 06.06.1998 in view of the fact that his said prayer has been rejected by ADM as well as D.M. Siwan. The learned Govt. pleader is of the view that as per provision u/s 152 C.P.C. certain mistake in the final order can be corrected which might have been caused inadvertently. In view of the clear provision under the law, the petitioner's case needs consideration. Accordingly, the impugned order of D.M. Siwan is set aside and the matter is remitted back to the A.D.M. Siwan for fresh consideration of the prayer of the petitioner in the light of the provision existing u/s 152 C.P.C. and also after verifying all the relevant records of the case.

With the aforesaid observations and direction, this appeal petition is disposed of

Dictated and Corrected by me.

1-6-16
Commissioner,
Saran Division, Chapra

1-6-16
Commissioner,
Saran Division, Chapra