



IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK JAIN

ON THE 14th OF JANUARY, 2026

CIVIL REVISION No. 1364 of 2025

MAHENDRA PRASAD TIWARI

Versus

SMT. CHINTI YADAV AND OTHERS

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Appearance:

Shri Atul Kumar Pathak - Advocate for the petitioner.

Shri Amit Mishra - Panel Lawyer for the respondents / State.
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ORDER

As by way of present revision challenge is made to the final order, therefore office objection as to maintainability of revision is ignored.

2. In present revision challenge is made to the order dated 13.11.2025 whereby the trial Court has finalized the decree and proceeded to finally sign the decree and rejected the application of the plaintiff-petitioner under Section 152 CPC for amendment/correction of the decree.

3. The plaintiff had filed a suit for declaration of title, recovery of possession and permanent injunction. The trial Court framed as many as six issues and issue No.2 related to whether the defendant has encroached on land of the petitioner-plaintiff in Survey No.615/2 and issue No.3 related to consequential issue that whether the plaintiff is entitled to the relief of recovery of possession. Upon trial, the court marked the conclusions against the issues. The issues and the conclusions arrived thereupon are as under:-



वाद प्रश्न एवं निष्कर्ष

क.	वाद प्रश्न	निष्कर्ष
1.	क्या वादी स्थित ग्राम कैथहा तहसील रामनगर जिला सतना म.प्र. स्थित भूमि आराजी नंबर 615/2 रकवा 0. 105 हेक्टेयर के अंश भाग का नजरी नक्शा अनुलग्न "अ" के अनुसार भूमि स्वामी है ?	"साबित"
2.	क्या प्रतिवादी क्रमांक 1 लगायत 4 ने ग्राम कैथहा तहसील रामनगर जिला सतना म.प्र. स्थित भूमि आराजी नंबर 615/2 रकवा 0.105 हेक्टेयर के अंश भाग का नजरी नक्शा अनुलग्न "अ" के अनुसार वादी की भूमि में अवैध निर्माण कार्य कर लिया है ?	"साबित"
3.	क्या वादी ग्राम कैथहा तहसील रामनगर जिला सतना म. प्र. स्थित भूमि आराजी नंबर 615/2 रकवा 0.105 हेक्टेयर के अंश भाग का नजरी नक्शा अनुलग्न "अ" के अनुसार रिक्त आधिपत्य प्राप्त करने का अधिकारी है ?	"साबित"
4.	क्या वादी ग्राम कैथहा तहसील रामनगर जिला सतना म. प्र. स्थित भूमि आराजी नंबर 615/2 रकवा 0.105 हेक्टेयर के अंश भाग का नजरी नक्शा अनुलग्न 'अ' में दर्शित भू-भाग पर कब्जा प्राप्ति के पश्चात स्थायी ब्यादेश प्राप्त करने का अधिकारी है ?	"साबित"
5.	क्या वादी द्वारा वाद का उचित मूल्यांकन कर पर्याप्त न्यायशुल्क अदा किया है ?	"हाँ"
6.	अनुतोष एवं व्यय ?	"निर्णय के अंतिम पैरा के अनुसार"

4. Further, the substantive part of the judgment indicates that the Court categorically arrived at a finding that the defendants have encroached upon the land of the petitioner and also that he is entitled to recover possession of the land. Paragraph 18 of the judgment is as under:-

"18. वादप्रश्न क्रमांक 2 के संबंध में वादी ने अभिवचित किया है कि प्रतिवादी क्रमांक 1 लगायत प्रतिवादी क्रमांक 4 के द्वारा वादग्रस्त भूमि पर अवैध निर्माण कर लिया गया है। इसके संबंध में वादी के द्वारा प्र.पी. 7 एवं प्र.पी. 8 है। जो वादग्रस्त भूमि में प्रतिवादी के द्वारा किये जाने वाले निर्माण के संबंध में जनपद पंचायत रामनगर एवं सी.ओ., तहसीलदार को किया गया शिकायती आवेदन पत्र है। जबकि उपरोक्त दस्तावेजों के खंडन में प्रतिवादी के द्वारा कोई अभिसाक्ष्य प्रस्तुत नहीं किया गया है कि उसके द्वारा वादीगण की आराजी पर अवैध रूप से कब्जा नहीं किया जा रहा है। उपरोक्त विवेचना के आधार पर जहां यह प्रमाणित पाया गया है कि प्रतिवादीगण द्वारा वादीगण के स्वामित्व की भूमि पर अवैध रूप से हस्तक्षेप किया गया है तब ऐसी स्थिति में वादीगण अपने स्वामित्व की आराजी का रिक्त आधिपत्य प्रतिवादीगण से प्राप्त करने के अधिकारी है।"

5. Surprisingly when the draft decree was proposed, the Court did not frame any decree in the matter of recovery of possession and passed an order of permanent injunction in respect of the land in Survey No.615/2 though the



Court had already arrived at a finding that the defendant has encroached upon the land and proceeded to record in the judgment that the defendant is required to handover the vacant possession of the land to the plaintiff but surprisingly, without mentioning in the decree the relief of recovery of possession, the trial Court only passed a decree of permanent injunction though permanent injunction should have been consequential to recovery of possession. There is a clear error in the decree whereby the trial has skipped to record in the decree the recovery of possession though in the judgment the trial court categorically arrived at a finding that the defendant has encroached upon the land and the plaintiff is entitled to decree of recovery of possession.

6. When the petitioner-plaintiff submitted objection to the said decree though captioned under Section 152 the trial Court held that such objections are not maintainable under section 152. Irrespective of the position that once the decree had not been finally signed then whether objections under Section 152 were maintainable or not, but once the trial Court had been pointed out with the position that despite noting in the judgment that the petitioner is entitled to recovery of possession, then in the decree recovery of possession was not mentioned, then the trial Court should have woken up to this anomaly and it was not required of the trial Court to have mechanically signed the decree by holding that Section 152 CPC is not made out. The error in the decree was being pointed out and even if the trial court came to conclusion that the application is wrongly captioned but if the objection was there and there was error in the decree then the trial Court was under obligation to correct the error in the decree before it being finally signed. The



trial Court summarily scuttled the objection holding that Section 152 is not made out and then went ahead to sign the decree.

7. Now as the decree has been finally signed, therefore the objections under section 152 CPC would indeed be maintainable.

8. Therefore the trial court is directed to pass a specific order under section 152 CPC and ensure that the decree should be in accordance with the judgement and not contrary to the judgement.

9. Let the trial Court pass appropriate orders within 30 days, petition is disposed off.

(VIVEK JAIN)
JUDGE

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