

CNR No: PHHC011448522026

2026:PHHC:128651



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

Sr. No.232

CR-6529-2026 (O&M)

Date of decision: 11.09.2026

Sukhram Pal

..... Petitioner

VERSUS

Naresh Kumar

..... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPINDER SINGH NALWA

Present: Mr. S.S. Momi, Advocate, for the petitioner.

Mr. Nonish Kumar, Advocate, for the respondent.

DEEPINDER SINGH NALWA, J. (Oral)

1. The present revision petition has been filed against the order dated 12.08.2026 (Annexure P-1) passed by the trial Court, whereby, the application dated 08.07.2026 (Annexure P-6) filed by the petitioner-defendant for framing of an additional issue regarding readiness and willingness of the respondent-plaintiff to perform his part of the alleged agreement to sell dated 23.02.2016 (Annexure P-4) has been dismissed.

2. A perusal of the facts of the present case would show that the respondent-plaintiff has filed a suit against the petitioner-defendant seeking a decree for possession by way of specific performance on the basis of agreement to sell dated 23.02.2016 (Annexure P-4). It transpires that during the pendency of the suit, the petitioner-defendant filed an application dated 08.07.2026 (Annexure P-6) for framing of an additional issue. The abovesaid application was considered by the trial Court and vide order dated

perusal of the abovesaid order dated 12.08.2026 (Annexure P-1) passed by the trial Court would show that it has been observed by the trial Court that no prejudice would be caused to the petitioner-defendant if an additional issue for readiness and willingness is not framed by the petitioner-defendant. Aggrieved against the abovesaid order dated 12.08.2026 (Annexure P-1) passed by the trial Court, the petitioner-defendant has filed the present revision petition.

3. Learned counsel appearing on behalf of the petitioner-defendant submits that as the suit has been filed by the respondent-plaintiff seeking decree of possession by way of specific performance on the basis of agreement to sell dated 23.02.2016 (Annexure P-4), issue of readiness and willingness is one of the relevant issues for the purpose of proper adjudication of the suit.

4. On the other hand, learned counsel appearing on behalf of the respondent-plaintiff submits that the parties have led their evidence and the suit is ready for hearing, therefore, the trial Court has rightly dismissed the application dated 08.07.2026 (Annexure P-6) filed by the petitioner-defendant for framing of an additional issue.

5. I have heard the learned counsel appearing on behalf of the parties and have perused the paper-book.

6. It is not in dispute that the respondent-plaintiff in the suit has made an averment that the respondent-plaintiff was ready and willing to perform the essential terms of the contract i.e. agreement to sell. Even otherwise also, it is well settled law that if the plaintiff fails to declare and prove that he/she was always ready and willing to perform his/her part of contract cannot obtain decree of specific performance. It is not in dispute

to perform his part of contract to meet the statutory requirement under Section 16 (c) of the Specific Relief Act, 1963 has not been framed.

7. Taking into consideration the facts of the present case, the order dated 12.08.2026 (Annexure P-1) passed by the trial Court is set aside and the application dated 08.07.2026 (Annexure P-6) filed by the petitioner-defendant for framing of an additional issue is hereby allowed. The trial Court is directed to frame the additional issue as prayed by the petitioner-defendant as mentioned in the application dated 08.07.2026 (Annexure P-6) filed by the petitioner-defendant for framing of an additional issue, subject to payment of Rs.5,000/-, to be paid to the respondent-plaintiff. After framing of the additional issue, the Trial Court shall afford an effective opportunity to both the parties to lead additional evidence on the said issue, if so desired. Thereafter, the parties shall be at liberty to address arguments on the said issue along with the other issues involved in the suit.

8. The present revision petition is allowed in the abovesaid terms.

9. Pending miscellaneous application(s), if any, also stand(s) disposed of.

(DEEPINDER SINGH NALWA)
JUDGE

11.09.2026
Ramandeep Singh

Whether speaking / reasoned

Yes/No

Whether Reportable

Yes/No