

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CR 1057 of 2015

Date of Decision: March 19, 2015

Rajinder Pal

.....Petitioner

Vs.

Harbhajan Singh

.....Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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Present:- Mr.M.K. Singla, Advocate
for the petitioner.

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M.M.S. BEDI, J. (ORAL)

Vide impugned order the application filed by the defendant-petitioner before First Appellate Court for framing of an additional issue has been dismissed.

Learned counsel for the petitioner submits that the defendant-petitioner had taken specific plea in the written statement as well as made an attempt to establish by producing evidence that the agreement dated December 20, 2006 on the basis of which suit for recovery has been filed, suffers from the vice of fraud with an objective to grab the money from

defendant- petitioner. The petitioner seeks the following additional issue to be framed:-

“Whether the alleged agreement dated December 20, 2006 is the result of fraud played by the plaintiff in connivance with the witnesses? OPD”

I have heard learned counsel for the petitioner. With the assistance of counsel for the petitioner I have gone through the written statement and the statement of defendant- petitioner Rajinder Pal as DW2 before the trial Court and I am of the opinion that issue No.1, mentioned below, would require adjudication of the plea taken by the defendant- petitioner pertaining to the document dated December 20, 2016 on the basis of which the plaintiff- respondent seeks to enforce his right of recovery:-

“Whether the defendant has borrowed a sum of Rs.5,01,600/- from the plaintiff against the agreement dated 20.12.2006? OPP”

There does not appear to be any requirement for framing an additional issue as it is expected that all the pleadings and the evidence in context to the agreement dated December 20, 2006 would be considered by the lower Appellate Court at the time of adjudication of the appeal on merits. The Appellate Court while considering issue No.1 already framed, would certainly be required to take up the plea of the defendant- petitioner regarding the agreement dated December 20, 2006. In view of said circumstances, this revision petition deserves to be disposed of as issue

No.1, already framed, is comprehensive enough to cover the proposed additional issue.

Disposed of.

March 19, 2015
sanjay

(M.M.S.BEDI)
JUDGE