

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

CR No.4539 of 2015 (O&M)
Date of decision: 22.7.2015

Balvir Singh and others

..... Petitioners

Versus

Nishan Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Jasmail Singh Brar, Advocate, for the petitioners.

RAJESH BINDAL, J

The order dated 3.4.2015 passed by the learned court below rejecting the application filed by the petitioners under Order 7 Rule 11 CPC for rejection of the plaint qua the petitioners, has been impugned in the present petition.

Learned counsel for the petitioners submitted that respondent No.1 filed a suit for possession by way of specific performance of agreement to sell, in which the petitioners were also impleaded as defendants No.3 to 6. However, no cause of action having been pleaded against them, the suit deserves to be dismissed. The reasoning given by the learned court below that the application cannot be entertained at belated stage, is erroneous, as such an application can be filed at any stage.

After hearing learned counsel for the petitioners, I do not find any merit in the present petition.

A perusal of the plaint shows that specific allegation of the plaintiff is that defendant No.1-Gurtej Kaur through his general power of attorney holder-Surjit Singh and defendant No.2-Jasvir Singh on behalf of respondents No.3 to 7, namely, the present petitioners, had entered into an agreement to sell pertaining to the land in question on 28.2.2007. Meaning thereby, there are specific allegations in the plaint that the land was sold to

the plaintiff by their attorney. Besides this, the learned court below has observed that the petitioners had filed some petition in this Court, where it was admitted that they had entered into agreement to sell with the plaintiff, which was clear admission by them that there was agreement to sell against which they had received earnest money, though was not signed by them. In the suit, which was filed on 16.4.2009, the evidence of the plaintiff is nearing conclusion. Once, the present petitioners are the owners of the land and the prayer in the suit is for possession by way of specific performance of agreement to sell pertaining to that land, it cannot be said that no relief has been claimed against the present petitioners.

For the reasons mentioned above, I do not find any merit in the present present petition. The same is accordingly dismissed.

(RAJESH BINDAL)
JUDGE

22.7.2015

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