

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

Date of decision:04.02.2015.

Sai Traders and another

.....Petitioners

v.

National Industries and others

.....Respondent

CORAM: HON'BLE MR.JUSTICE JASWANT SINGH

Present:- Mr.Manu Loona,Advocate for the petitioners

Jaswant Singh,J.(Oral)

Plaintiffs are in revision aggrieved by the order dated 18.11.2014 passed by Additional Civil Judge (Senior Division)Faridkot whereby their application for framing additional issues in respect of stand of the defendants, has been dismissed.

Having heard learned counsel for the petitioners, this Court finds no ground to interfere with the impugned order.

Plaintiffs filed a suit for recovery against defendant-firm as also its partners for a sum of Rs.14 lacs alongwith interest, which is pleaded to have been taken by way of loan, The amount is stated to have been paid by cheques. Defendants admitted to have received a payment of Rs.14 lacs but pleaded that plaintiff no.2 had joined the business of defendant firm as partner and the said amount was paid as capital investment which is apparent from the writing dated 3.9.2009 executed by the parties. The said writing has been denied by the

plaintiffs. On the pleadings of the parties, trial court inter alia framed issues i.e. (i) whether plaintiff no.2 joined firm as partner and executed writing and (ii) whether plaintiffs are entitled to the recovery of Rs.21,56,000/- inclusive of interest, as prayed for? OPP. After the issues had been framed on 3.10.2013, plaintiffs moved an application dated 19.2.2014 (P-4) seeking to raise the following additional issues:-

“(i)Whether the plaintiff no.2 joined the defendant firm as partner and executed writing dated 03.09.2009?OPD

(ii)Whether plaintiff no.2 agreed to pay Rs.14 lacs as capital investment in the defendant firm?OPD

(iii) Whether the sum of Rs.14 lacs was adjusted against the amount of Theka, interest and losses suffered by defendant firm?OPD.”

The learned trial Court, as is apparent from the impugned order has recorded its satisfaction that the aforesaid issues, as per pleadings in the written statement are to be proved by defendants, are covered under issue no.1 and therefore the said issues being actually matter of evidence are not required to be framed. The satisfaction recorded by the trial Court in the opinion of this Court does not appear to be perverse or suffering from any jurisdictional error.

In view of the above, present revision petition stands dismissed.

04.02.2015
joshi

(Jaswant Singh)
Judge