

CR No.6407 of 2013

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

**CR No.6407 of 2013
Date of decision:09.02.2015**

Surinder Singh

...Petitioner

Versus

Harish Kumar and others

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Jagnahar Singh, Advocate, and
Mr. S.S.Rangi, Advocate, for the petitioner.

Mr. F.S.Virk, Advocate,
for respondent no.3.

Rakesh Kumar Jain, J.

The petitioner has challenged the order dated 24.09.2013, dismissing his application to lead additional evidence.

The plaintiff-petitioner filed a suit for specific performance of an agreement to sell dated 16.07.2004, alleged to have been executed in his favour by defendant no.1. He has also challenged the sale deed no.636 dated 23.05.2005 executed by defendant no.1 in favour of defendant no.2 and the sale deed no.3189 dated 02.02.2006 executed by defendant no.2 in favour of defendant no.3, in the alternative for recovery and permanent injunction restraining the defendants from further alienating the suit property.

After the evidence was closed by the plaintiff and the

defendants, an application for additional evidence was filed by the plaintiff alleging that defendant no.1 has executed an agreement to sell dated 31.12.2003 in favour of defendant no.2 but there is no reference of the agreement in the written statement. It is alleged that the said agreement dated 31.12.2003 is a forged document as it was an anti-dated document because the agreement in favour of the petitioner is dated 16.07.2004. It was urged in the application that the agreement may be sent to the India Security Press, Nasik for verifying the age/date of the stamp on the agreement so as to prove that the agreement was written on the back date.

The learned trial court dismissed the application of the petitioner, *inter alia*, on the ground that the said agreement is not a part of the pleadings. The plaintiff was given ample opportunity to lead his evidence till 19.04.2011 on which date the plaintiff himself had closed his evidence. Moreover, nothing has been mentioned in the application about the purpose which is going to be achieved by leading additional evidence.

Learned counsel for the petitioner has argued that the sale deed in favour of defendant no.2, executed by defendant no.1, is on the basis of the earlier agreement i.e. 31.12.2003 but the said agreement has been anti-dated.

On the other hand, learned counsel for respondent no.3 has supported the impugned order.

After hearing learned counsel for the parties and examining the record, I am of the considered opinion that there is no error in the order of the Court below because the petitioner has started his case with the

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challenge to the sale deeds and had all the opportunities at his disposal to challenge validity of the agreement to sell dated 31.12.2003 when he was leading his evidence and now he cannot be allowed for a fishing inquiry for the purpose of leading evidence to the effect that the agreement dated 31.12.2003 is an anti-dated document.

In view thereof, I do not find any merit in the present revision petition and hence, the same is hereby dismissed.

February 09, 2015
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(Rakesh Kumar Jain)
Judge