

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

(215)

CR No.7300 of 2013

Decided on: July 28, 2015.

Balwinder Kaur

.... Petitioner

Versus

Mayoor Khurana and others

..... Respondents

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

Present: Mr. Jagjit Singh , Advocate,
for the petitioner.

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

This is defendant's revision petition against the dismissal of an application for framing of certain additional issues, as claimed by counsel for the defendant-petitioner, arising from the pleadings. The plaintiff-respondents have filed a suit for specific performance of an agreement of sale dated 20.10.2009 against the defendant-petitioner. The defendant-petitioner has resisted the claim of the plaintiff-respondents by filing a detailed written statement, copy of which has been placed on record as Annexure P-2. On the basis of pleadings, the trial Court has framed the following issues:

“1. Whether the plaintiffs are entitled to the possession of the suit land through specific performance agreement to sell dated 20.10.09? OPP

2. Whether the plaintiffs in a alternative are entitled to recovery of the sum of Rs. 1 crore, 50 lacs alongwith interest, if yes, then interest at what rate, on what amount and for which period? OPP

3. *Whether the plaintiffs are entitled to the relief of permanent injunction they have prayed for? OPP*
4. *Whether the plaintiffs are estopped to file the present suit on account of their own act and conduct? OPD*
5. *Relief.”*

The defendant-petitioner has sought for framing the following additional issues:-

- a). *Whether there was any defect in the title of the defendant regarding the joint khata of the land in suit? OPP*
- b). *Whether the plaintiffs have always been ready and willing to perform their part of the contract and were ready with sale consideration and expenses and registration of the sale deed? OPP*
- c). *Whether the plaintiffs constructed roads etc, in the land in suit to give it a shape of colony, by spending Rs.7 lacs? OPP*
- d). *Whether the land in suit adjoins the military area where no one can raise construction etc? OPP*
- e). *Whether it is agreed between the parties to get their presence marked before Sub Registrar Jalandhar? OPP*
- f). *Whether the defendant removed the material lying in the land in suit and also negotiating to sell and alienate the property in dispute with third party? OPP*
- g). *Whether the plaintiffs have got cause of action to file the present suit? OPP*

With the assistance of learned counsel for the petitioner, I have gone through the plaint and written statement in order to appreciate whether the material proposition of fact or law affirmed by one party and denied by the other have been incorporated in the issues in the exercise of powers under Order 14 Rule 1 CPC. Five issues framed by the trial Court on 08.08.2011 mentioned hereinabove seem to cover the additional issues which are sought to be framed by moving an application. The issues at (a)

and (b) can always be decided under issue No. 1 and 2 framed on

08.08.2011. The other issues mentioned at (c) to (g) can also be adjudicated upon while deciding issue No.3. The other pleas raised in the written statement by the defendant-petitioner would always be open to be established under issue No.4.

In view of abovesaid circumstances, I do not find any ground to interfere in the impugned order, dismissing the application for framing of additional issues.

This petition is dismissed. However, it is observed that dismissal of the application will not in any manner prejudice the right of the trial Court to frame any issue, in case, it is deemed expedient in the interest of justice, in the exercise of powers under Order 14 Rule 5 CPC which give wide powers to the Court to frame any additional issue on such terms as it is thinks fit at any time before passing a decree by amending the issues.

(M.M.S. BEDI)
JUDGE

July 28, 2015
harsha