

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 8017 of 2014 (O&M)
Date of decision: 04.05.2015

Kulwant Singh and others

... Petitioners

versus

Rakesh Kumar

.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Shakti Mehta, Advocate, for
Mr. Sandeep Khunger, Advocate for the petitioners.

Mr. Abhishek Sharma, Advocate for the respondent.

K.Kannan, J.

Learned counsel appearing for the petitioners seeks for an adjournment. I have declined it, having regard to the nature of amendment which has been ordered by the trial Court. In a suit for specific performance where the plaintiff has stated that he has parted with the consideration of over ₹ 35,00,000/-, he wants to add an express averment of continued readiness and willingness. There is a whole volume of case laws on the subject that the Court shall be liberal in allowing for an amendment to include the reference to readiness and willingness if there are other averments in the plaint that would evidence such a conduct.

The averment regarding readiness and willingness is a statutory mandate under Section 16 (c) of the Specific Relief Act and the absence of such averment will cause a very serious prejudice.

In every case for specific performance whether there is a pleading or not by the plaintiff or where there is a denial or otherwise of the plaintiff's readiness and willingness, the Court is bound to adjudge on the readiness and willingness of the plaintiff. There shall also be a specific issue framed therefor. If the plaint did not already

contain the averment which is statutorily mandated and that was brought through an amendment, there is simply no justification for a defendant to apply to this Court for revision.

The revision is an abuse of process in this case and I decline to make any interference.

The civil revision petition is dismissed with above observations.

(K.KANNAN)
JUDGE

04.05.2015

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