

In the High Court of Punjab and Haryana at Chandigarh

**C.R. No. 218 of 2016 (O&M)
Date of Decision: January 14, 2016**

Chetan and others

... Petitioners

Versus

Satish Kumar

... Respondent

**CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH
DHALIWAL**

Present: Mr. Bhavyadeep Walia, Advocate,
for the petitioners.

Paramjeet Singh Dhaliwal, J. (Oral)

Instant revision petition has been filed under Section 115 of the Code of Civil Procedure for setting aside the impugned order dated 04.01.2016 passed by learned Civil Judge (Junior Division), Ambala, whereby application filed by the defendants-petitioners for framing of additional issue has been dismissed.

Brief facts of the case are that plaintiff-respondent filed a suit for possession by way of specific performance on the basis of agreement to sell dated 14.11.2007. In pursuance of notice, defendants/petitioners appeared and filed written statement. After considering the pleadings of the parties, the trial Court framed the following issues:-

- “1. *Whether the plaintiff is entitled to decree for possession by way of specific performance of the agreement to sell dated 14.11.2007, by directing the defendants to execute and get registered the sale deed of the land situated in Sirasgarsh, Tehsil Barara, District Ambala? OPP*

2. *If issue no.1 is proved in affirmative, whether plaintiff is entitled to relief of permanent injunction restraining the defendants from selling alienating or in any other manner changing the nature and corpus of the land by way of mortgaging etc.? OPP*
3. *Whether the suit of the plaintiff is not maintainable in the present form? OPD*
4. *Whether plaintiffs are estopped from filing the present suit by their own act and conduct? OPD*
5. *Whether the plaintiff has not approached the court with clean hands and has suppressed true and material facts from the court? OPD*
6. *Relief.”*

Thereafter, defendants-petitioners filed an application for framing of additional issue before the trial Court. Vide impugned order dated 04.01.2016, the trial Court dismissed the said application. Hence, this revision petition.

I have heard learned counsel for the petitioners.

Learned counsel for the petitioners vehemently contended that agreement to sell is with regard to 8 kanals of land not 3 kanals of land as claimed by the plaintiff.

I have considered the contention raised by learned counsel for the petitioners and perused the record.

Be that as it may, the fact remains that plaintiff is claiming possession on the basis of agreement to sell dated 14.11.2007. If there is any variation in the claim or any tampering or alteration in the agreement then the petitioners can only prove the same by leading evidence. This fact is not denied by the learned counsel for the petitioners that agreement to sell on the basis of which the petitioners are asserting in their pleadings that it is 8

kanals of land not 3 kanals, is of the same date. Otherwise also, the petitioners have right to rebut issue no.1. Instant revision petition apparently appears to be a frivolous one, just to delay the proceedings and deserves to be dismissed with costs.

In view of above, instant revision petition being frivolous and and an abuse of the process of the Court, is dismissed with costs of Rs.25,000/-. The costs shall be paid to the District Legal Services Authority, Ambala within a period of one month from today, failing which, the same shall be recovered as the arrears of land revenue.

January 14, 2016
vkd

[Paramjeet Singh Dhaliwal]
Judge