

Civil Revision No.7093 of 2016

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In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No.7093 of 2016

Date of Decision: 22.10.2016

Rameshwar Dass

---Petitioner

versus

Shakuntala and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Vikas Chatrath and Ms. Neeru Thakur, Advocates
for the petitioner**

Rekha Mittal, J.

The present petition has been directed against order dated 5.9.2016 (Annexure P-7) passed by the Additional Civil Judge (Senior Division), Sub Division, Bilaspur whereby application filed by the petitioner under Order 6 Rule 17 of the Code of Civil Procedure (in short "CPC"), has been dismissed.

The petitioner has filed the suit for possession by way of

specific performance of the agreement to sell dated 18.9.2007 purported to be executed by Sumer Chand son of Surja since deceased in respect of land measuring 3 kanals 14 marlas bearing khata No. 172, Khatauni No. 77 khasra Nos. 104, 105, situated in village Tihmo, HB No. 174, Tehsil Chhachhrauli, District Yamunanagar. Counsel for the petitioner would submit that the application for amendment was filed in order to bring description of the suit land in consonance with the agreement to sell that has already been proved on record. It is argued that though the trial court has held that the case has to be decided on the basis of agreement to sell dated 18.9.2007 and it hardly matters that the plaintiff has not mentioned the killa number and khewat number in the plaint but in the later part, it has been observed that the amendment is remote in nature and allowing the remote amendment will set the clock back and hence the plaintiff is not allowed to make these amendments. It is further argued that in case the petitioner is not allowed to amend the plaint in order to remove the ambiguity qua description of the land in the plaint just in consonance with its description in the agreement to sell, it may cause prejudice to the petitioner at the time of final disposal of the suit.

I have heard counsel for the petitioner, perused the paper book

and the order impugned.

There appears to be some contradiction in the observations made by the trial court while disposing of the application for amendment. However, as the trial court has held that the suit is to be decided on the basis of agreement to sell dated 18.9.2007 by deciding whether the same can be specifically performed or not, the present petition is disposed of with the direction that any inconsistency in describing the suit property in the head note of the plaint viz-a-viz the agreement to sell would not cause prejudice to rights of the petitioner at the time final disposal of the suit.

(Rekha Mittal)
Judge

22.10.2016

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No