

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

**CR No.7159 of 2014
Decided on: 28.09.2016**

Bharpur Singh

....Petitioner

Versus

Azim Basif and another

....Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Arun Jindal, Advocate
for the petitioner.

REKHA MITTAL, J.

By invoking Article 227 of the Constitution of India, the present petition directs challenge against order dated 07.10.2014 (Annexure P-4) passed by the Civil Judge (Jr. Division), Fatehgarh Sahib, whereby application dated 16.10.2013 filed by the petitioner/plaintiff for direction to defendant to produce original passport and supply notarized copy thereof has been dismissed.

Counsel for the petitioner has submitted that the petitioner along with Jagtar Singh has filed a suit for permanent injunction restraining the respondents/defendants from transferring the suit property mentioned at Letter X as well as in the agreement to sell dated 17.06.2008. The respondent/defendant in the written statement has raised a plea that he never executed agreement to sell on 17.06.2008 in favour of the plaintiffs. The agreement is a false, forged, fabricated document and the same is without consideration. As per *Jamabandi* for the year 2003-04, he has not been shown as owner in possession of the suit property. Mutation No.15888 which was to be sanctioned in favour of the defendant has already been rejected by the Revenue Authorities

vide order dated 20.04.2009.

The instant application was filed by the plaintiffs on the plea that defendant came from England, entered into agreement to sell with the plaintiff/other vendees and as such production of original passport is indispensable and also the notarized copy of the passport be supplied to the plaintiffs. It is further submitted that the learned trial Court committed a serious error rather illegality by dismissing the application. It is prayed that the impugned order may be set-aside and the respondent/defendant be directed to produce his passport and supply a notarized copy thereof to the petitioner.

I have heard counsel for the petitioner, perused the paperbook particularly the various annexures appended with the petition and the order impugned.

Apart from the fact that an issue with regard to maintainability of suit for injunction simplicitor despite expiry of the period stipulated in the alleged agreement for registration of the sale deed and therefore, cause of action to file a suit for specific performance having been already accrued by the time the suit for injunction against alienation was filed is involved, it is none of the plea of the defendant in the written statement that he was not present in India on 17.06.2008, the day on which the alleged agreement to sell is stated to be executed by him in favour of the plaintiffs. The plea raised by the defendant is that the agreement is a false, forged, fabricated document and the same is without consideration. Under these circumstances, the trial Court has rightly held that production of passport is not relevant in the circumstances of the case and the

application filed by the petitioner is liable to be dismissed. I do not find any error much illegality in the impugned order warranting intervention.

For the foregoing reasons, the petition fails and is accordingly dismissed. However, nothing stated in this order shall be construed as an expression of opinion on merits of the case.

28.09.2016
yakub

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No