

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

Civil Revision No.8396 of 2016
Date of decision: December 14, 2016

Ashok Kumar ...Petitioner

Versus

Atul Kumar Goel & another ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. U.K. Agnihotri, Advocate for the petitioner.

Rajan Gupta, J.

Present revision petition is directed against order dated 10.11.2016 (Annexure P-1), passed by the trial court, whereby application under Order 7 Rule 11 read with Order 6 Rule 6 and Section 16 (c) CPC filed by the petitioner for rejection of plaint and/or treating issues No.5, 8, 10 and 11 as preliminary issues has been rejected.

Counsel for the petitioner has assailed the order. According to him, the alleged agreement to sell dated 11.12.2004 executed between respondent No.1/plaintiff and the petitioner is a forged and fabricated document. Petitioner never entered into any such agreement with the plaintiff, thus, suit filed on the basis of alleged agreement is liable to be dismissed.

I have heard learned counsel for the petitioner and given careful thought to the facts of the case.

It appears, respondent No.1/plaintiff filed a suit for specific performance against the petitioner and Haryana Urban Development

Authority. Suit was instituted on 20.03.2006. Issues were framed on 24.09.2008. After both the parties led their evidence, petitioner/defendant No.1 filed instant application for rejection of plaint and/or treating issues No.5, 8, 10 and 11 as preliminary issues. Plea has been rejected by the court below on the ground that application under Order 7 Rule 11 CPC had been moved at a stage when trial has made considerable progress. Plea for treating certain issues as preliminary issues, has been rejected on similar grounds. I find no infirmity with the order. Parties have led their respective evidence in support of the issues framed way back in the year 2008. It is evident that instant application, moved by the petitioner, is not only frivolous but intended to delay the trial, which commenced in the year 2006. Normally this court would impose exemplary costs while dismissing such a petition. However, as the suit appears to be nearing culmination, it would be appropriate if trial court is directed to expedite the proceedings and conclude the trial as early as possible. Revision petition is without any merit and is hereby dismissed.

(RAJAN GUPTA)
JUDGE

December 14, 2016
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No