

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

**CR No. 326 of 2017  
DECIDED ON: MARCH 01, 2017**

**JASWANT SINGH**

**....PETITIONER**

**VERSUS**

**SURESH PAL**

**....RESPONDENT**

**CORAM: HON'BLE MR. JUSTICE JASPAL SINGH**

Present:     Mr. Vivek Goyal, Advocate  
                 for the petitioner.

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**JASPAL SINGH, J**

Challenge in this revision petition preferred under Article 227 of the Constitution of India is to the order dated January 12, 2017 (Annexure P-1) passed by learned Civil Judge (Jr. Division), Kurukshetra, whereby, an application under Order XIV Rule 5 of the Code of Civil Procedure (for short 'Code') filed by the petitioner for framing additional issues; has been dismissed.

While assailing the impugned order, it has been submitted by learned counsel for the petitioner that an application under Order XIV Rule 5 of the Code has been dismissed by learned trial Court without considering the true and material facts of the case. In fact, all the material issues which arise out of the pleadings of the parties have not been framed including one that the suit of the plaintiff is hit by provision of Order VII Rule 1, 11 and 14 of the Code. A

specific preliminary objection in this regard was taken by the petitioner-defendant in the written statement. The learned trial Court was obliged to frame afore-said issue which could have a direct bearing on the decision of the suit. The mere fact that the suit is pending for the last 3-4 years does not *ipso facto* mean that the prayer for framing of additional issues is to be declined.

While concluding his arguments, it has been submitted by learned counsel for the petitioner that since the learned trial Court has failed to frame proper and material issues arising out of the pleadings of the parties, impugned order deserves to be set aside and afore-said application deserves to be allowed.

This Court has given an anxious thought to the afore-said submissions made by learned counsel for the petitioner but does not find any legal and factual weight therein.

Admittedly, the suit is lingering on for its disposal since, 2013. From the pleadings of the parties issues were framed by learned trial Court on December 12, 2013. Thereafter, certain additional issues were also framed on January 28, 2015 but at that time, no objection was raised by either of the parties for framing of additional issues.

Here it would be pertinent to mention that as many as following nine issues were framed arising out of the pleadings of the parties by learned trial Court in order to settle the controversy between the parties:

1. *Whether there was an agreement to sell dated 26.05.2008 between the parties for valuable consideration as alleged?OPP*
2. *Whether plaintiff has been ready and willing to perform his own part of contract on payment of balance sale consideration as alleged?OPP*
3. *Whether if above issues are proved then plaintiff is entitled to decree of specific performance of contract with consequential relief of possession and P.I. As prayed*

- for?OPP.*
4. *Whether present suit is not maintainable?OPD*
  5. *Whether plaintiff has no locus standi to file and maintain the present suit?OPD*
  6. *Whether the plaintiff is estopped by his own act and conduct from filing the present suit?OPD*
  7. *Whether present suit is hopelessly time barred?OPD*
  8. *Whether plaintiff has not come to the court with clean hands and concealed the true and material facts from court?OPD*
  - 8-A *Whether the suit is bad for non-joinder and mis-joinder of necessary parties?OPD*
  - 8-B *Whether the suit is not properly valued for the purpose of Court fee and jurisdiction?OPD*

The only major contention of learned counsel for the petitioner is that an issue that the suit of the plaintiff is hit by provision of Order VII Rule 1, 11 and 14 of the Code has not been framed. In fact, the said issue stands covered under issue No. 1, which deals with regard to the maintainability of the suit as well as under issues No. 8-A and 8-B. Even otherwise, the parties are well aware of the pleadings as well as objections taken in the written statement, according to which, they have led their respective evidence. The framing of additional issue would be nothing but would reopen the matter and result into delay in disposal of the suit.

Thus, this Court is of the considered view that no interference of this Court is justified in the impugned order, which otherwise is in consonance with the evidence available on file as well as settled cannons of law.

In the light of what has been discussed above, this Court does not find any merit in the instant petition. As such, it stands dismissed.

**MARCH 01, 2017**  
**sham**

**(JASPAL SINGH)**  
**JUDGE**

*Whether speaking/reasoned*      *Yes/No*

*Whether reportable*                      *Yes/No*