

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

131

CR No.5751 of 2017 (O&M)
Date of decision: 28.08.2017

Narinder Singh

..... Petitioner

Versus

Mohinder Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Jaswinder Singh, Advocate
for the petitioner.

ANIL KSHETARPAL, J. (ORAL)

Plaintiff has challenged the order dated 07.07.2017 dismissing the application under Order 14, Rule 5, CPC.

The suit was filed in the year 2008. Issues were framed by the Court on 15.11.2011. Parties led their evidence being alive to the question involved in the present case. Plaintiff as well as defendant concluded their evidence in affirmative.

When the case was at the stage of rebuttal evidence, an application under Order 14, Rule 5 was filed. Taking into consideration that the issues were framed in 2011 and parties have led their affirmative evidence, the learned trial Court has observed that issue No.1 is omnibus issue that covers the entire controversy between the parties.

In view thereof, there is no ground to interfere with the impugned order passed by the Court.

However, it has been noticed that while framing the issues, the

Courts are not framing the issues after taking into consideration the provisions of Order 14 of Code of Civil Procedure, 1908. Order 14, Rule 1 provides that when a material proposition of fact or law is affirmed by one party and denied by the other, the Court is to frame a separate issue thereon. It is further provided that each material proposition affirmed by one party and denied by the other shall form the subject matter of a distinct issue.

Order 14, Rule 1 is extracted as under:

“Framing of issues-(1) Issues arise when a material proposition of fact or law is affirmed by one party and denied by the other.

(2) Material propositions are those propositions of law or fact which a plaintiff must allege in order to show a right to sue or a defendant must allege in order to constitute his defence.

(3) Each material proposition affirmed by one party and denied by the other shall form the subject of a distinct issue.

(4) Issues are of two kinds:-

(a) issues of fact,

(b) issues of law.

(5) At the first hearing of the suit the Court shall, after reading the plaint and the written statements, if any, and [after examination under Rule 2 of Order X and after hearing the parties or their pleaders], ascertain upon what material propositions of fact or of law the parties are at variance, and shall thereupon proceed to frame and record the issues on which the right decision of the case appears to depend.

(6) Nothing in this rule requires the Court to frame and record issues where the defendant at the first hearing of the suit makes no defence.”

Repeatedly, the High Court has been observing that the trial Court while framing the issues do not take into consideration the provisions of Order 14, Rule 1. The order framing of the issues must show application

of mind and a distinct issue should be framed on each material proposition affirmed by one party and denied by the other. It is hoped that the Courts would keep in consideration the provisions of Order 14, Rule 1, CPC before framing the issues in future.

With these observations, the revision petition filed by the petitioner is dismissed.

28.08.2017
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No