

132

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

**CR No.5753 of 2017 (O&M)
Date of decision : 28.08.2017**

Prem Singh (Since deceased) Through LRs

.....Petitioner

versus

Pratigya Pal (Since deceased) Through LRs and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Munish Gupta, Advocate
for the petitioner.

--

ANIL KSHETARPAL, J. (ORAL)

Plaintiff is in revision petition against the order dated 06.07.2017, permitting the defendant to amend the written statement.

Defendant in his original unamended written statement had pleaded his possession on the basis of writing dated 15.01.1969. Of course, in one of the paragraphs, he had claimed that he was a tenant.

Defendant filed an application for amendment of the written statement on the ground that the original writing dated 15.01.1969 was in Urdu language and on translation it has come to his notice that the writing dated 15.01.1969 is in fact an agreement to sell. Learned trial Court has permitted the defendant to amend the written statement.

I have heard learned counsel for the petitioner at length and with his able assistance gone through the paper-book.

Learned counsel for the petitioner has submitted that once the

petitioner had taken a defence that he is in possession as a tenant then he cannot be permitted to take a contradictory plea that possession of the defendant is on the basis of agreement to sell.

I have considered the submission of learned counsel for the petitioner. However, the plea taken by the defendant is not contradictory. The defendant in the written statement had specifically pleaded the writing dated 15.01.1969. Defendant is trying to protect his possession. In my considered opinion, the plea that the defendant is in possession pursuant to an agreement to sell is only an alternative plea. It is permissible for the defendant to take alternative plea.

For the reasons recorded above, I do not find any good ground to interfere with the order passed by the trial Court dated 06.07.2017. The revision petition is ordered to be dismissed.

(ANIL KSHETARPAL)
JUDGE

August 28, 2017

sahil soni

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