

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

Civil Revision No.588 of 2017 (O&M)
Date of decision: February 15, 2017

Radhey Shyam

...Petitioner

Versus

Smt. Kamla Sharma (deceased) through
her LRs Ramesh Chander etc. & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. R.N. Lohan, Advocate for the petitioner.

Rajan Gupta, J. (oral)

Present revision petition is directed against the order dated 28.11.2016, passed by Additional District Judge, Rewari, whereby application filed by the petitioner for framing proper issues at the appellate stage, has been dismissed.

Learned counsel for the petitioner has assailed the order. According to him, order is unsustainable. Application ought to have been allowed by the court below in the facts and circumstances of the case, as issue regarding ownership of plaintiffs had not been framed by the trial court.

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

It appears that plaintiff/petitioner and respondents No.6 to 12 filed a suit for declaration and permanent injunction against respondents No.1 to 5, challenging sale deed No.1107 dated 25.08.2016 on the ground

that they were owners in possession of the suit property and restraining the defendants from interfering into their possession. Issues in the suit were framed on 25.05.2007. Suit was dismissed by the trial court on 29.01.2014. Plaintiffs preferred appeal. During pendency of appeal, instant application was filed by the plaintiffs for amending the issues. Prayer has been rejected by the appellate court observing that non-framing of a particular issue would not be fatal to the case of the plaintiffs. I find no infirmity with the order. The issues already framed were exhaustive in nature and there was no necessity of amending the same at the appellate stage. It is evident that number of issues were framed by the court in the suit. Plaintiffs prayed for permanent injunction to restrain defendants from interfering in peaceful possession of the property. In my considered view, plea to amend the issues or frame an additional issue is without any reasonable ground and application has been filed without any cogent reason that too at a belated stage. Trial court has rightly rejected the prayer. I, thus, find no merit in the revision petition.

Dismissed.

(RAJAN GUPTA)
JUDGE

February 15, 2017
'Rajpal'