

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

218

CR No.7200 of 2015
Date of decision: 13.11.2017

Sodha Bai and another

..... Petitioners

Versus

Brahma Devi and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. B.S. Mittal, Advocate
for the petitioners.

Mr. Sandeep Punchhi, Advocate
for respondents No.1 and 2.

ANIL KSHETARPAL, J. (ORAL)

Plaintiffs-petitioners are in revision petition against the order refusing to frame additional issues. Plaintiffs had filed a suit for declaration claiming property of Smt. Loki on the basis of a registered Will dated 02.08.1972. Plaintiffs in para No.5 of the plaint asserted as under:-

“That thereafter Smt. Loki executed a Registered Will No.58 dated 02.08.1972 in favour of Krishan son of Smt. Loki regarding the suit land. Photostat copy of the said Will is attached herewith but unfortunately Shri Krishan died before the death of Smt. Loki, Krishan died on 25.06.1980. Photostat copy of the Death Certificate is attached herewith and the Will remain intact.”

After filing of the written statement, the Court framed issues which are extracted as under:-

“1. Whether the plaintiffs are entitled to the relief of declaration as prayed for?OPP

2. Whether the plaintiffs are entitled to the relief of

permanent injunction as prayed for?OPP

3. *Whether the suit of the plaintiffs is not maintainable in the present form?OPD*

4. *Whether plaintiffs have no locus standi and cause of action to file the present suit?OPD*

5. *Whether the suit is bad for non-joinder of necessary parties?*

6. *Whether the suit of the plaintiffs is time barred?OPD*

7. *Relief.”*

Parties led their evidence. When the case was at the stage of rebuttal and arguments, the plaintiffs filed an application under Order 14 Rule 5, CPC for framing additional issues. Learned trial Court held that the issues framed are exhaustive and comprehensive enough to effectively decide the suit. The Court has further held that the parties knew their case and have already led their evidence. Thus, the learned trial Court dismissed the application.

Learned counsel for the petitioners has submitted that the additional issues can be framed at any stage. He has further submitted that the issues framed by the Court on 16.08.2013 were not proper. He has referred to me provisions of Order 14 Rule 1, CPC which provide that each material proposition affirmed by one party and denied by the other shall form the subject matter of a separate issue.

No doubt, Civil Courts have started a wrong practice of framing issues on the basis of a relief claimed which is not in spirit with Order 14 Rule 1, CPC. Repeatedly, High Court in various judgments have held that the issues should be framed after due application of mind and keeping in view the principles laid down in Order 14, CPC.

However, in the present case, the case is at rebuttal stage. The

Court has already held that the issues framed are comprehensive and cover the additional issues which are sought to be framed.

For the reasons recorded above, this Court does not find any good ground to interfere at this stage when the case is ripe for final arguments.

Revision petition is dismissed.

13.11.2017
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

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