

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

Civil Revision No.7356 of 2017

Date of Decision:27.10.2017

Des Raj

.....Petitioner

V/S

Babu Ram

.....Respondent

CORAM: HON'BLE MR. JUSTICE B.S.WALIA

Present: Mr.Parveen Kumar Garg, Advocate for the petitioner.

1. Prayer in the instant revision petition is for setting aside of order dated 06.10.2017 (Annexure P-5) passed by the learned Addl. Civil Judge, Sunam, whereby prayer of the petitioner for deletion of issue No.9 as also the prayer for framing of additional issue was rejected.

2. Learned counsel contends that the respondent-plaintiff had filed a suit for possession of residential house in question on the basis of ownership and concluded his evidence without any issue having been framed. Subsequently, when evidence of the petitioner-defendant commenced and it was realized that issues had not been framed, ten issues were framed on 22.09.2017.

3. Learned counsel contends that although issue no.1 rightly placed the onus on the respondent-plaintiff for proving whether he was entitled for possession on the basis of ownership of house, issue no.9 wrongly placed the onus of establishing whether the respondent-plaintiff was not owner of the house in dispute on the petitioner.

4. Learned counsel contends that he does not press the relief with regard to claim for framing of additional issues and confines his prayer to deletion of issue no.9.

5. A perusal of the impugned order dated 06.10.2017 reveals that the application was dismissed by taking into account that the petitioner-defendant

had taken up the stand in the written statement that it was not the respondent-plaintiff who was the owner, but in fact it was the petitioner-defendant who was the owner of the property in question. On the basis of the same learned trial Court in the light of Order 14, CPC held that the issue had been rightly framed.

6. The learned trial Court dismissed the application by observing that the entitlement of the plaintiff for the house in question was to be established by the plaintiff by proving ownership of the house in question whereas in view of the stand of the defendant in the written statement that he was the owner in possession, the onus to prove non-ownership had been shifted upon the defendant.

7. After arguing for some time, learned counsel for the petitioner prays for permission to withdraw the revision petition with liberty to take out appropriate proceedings for amendment of the issues framed.

Dismissed as withdrawn with liberty as aforesaid.

(B.S.WALIA)
JUDGE

27.10.2017

Anjal

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No