

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

CR No. 778 of 2017

Date of Decision: 25.07.2017

SUNITA DODA

-PETITIONER

VS

DURGESH DHOLIA @ DURGESH DHALIA

-RESPONDENT

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Peeush Gagneja, Advocate,
for the petitioner.

RAJ MOHAN SINGH, J. (ORAL)

Defendant No.4-petitioner has challenged the order dated 28.10.2016 passed by Civil Judge (Senior Division), Abohar vide which the prayer in terms of Order 7 Rule 11 CPC was declined.

Civil suit for specific performance on the basis of agreement to sell dated 07.04.2011 was filed by the plaintiff. Factum of property being mortgaged with the Bank as security of the payment of loan raised by defendants No.1 and 2 was admitted. It was also admitted that on the date of filing of the suit, defendant No.3 had also started proceedings under Scrutinization Act.

According to learned counsel, defendant No.4-petitioner has already purchased the property in open auction

conducted by the Bank and sale certificate was issued on 14.08.2012. Even mutation was sanctioned and therefore, jurisdiction of the Civil Court is barred under Section 34 of the Scrutinization Act.

The Court after considering the plea has found that the plaint may not be valid for a relief of specific performance but the same can be tested for alternate relief of recovery in the event of proving execution of agreement to sell in question. The aforesaid observation in my considered opinion is not without any force.

In view of above, I find no justification in interfering in the impugned order dated 28.10.2016 passed by the trial Court.

Accordingly, the present revision petition is dismissed.

25.07.2017
jjyoti Y.

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No