

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

256

CR No.3737 of 2017

Date of decision: 05.04.2018

Rajinder Kumar

..... Petitioner

Versus

Satpal and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. S.K. Yadav, Advocate
for the petitioner.

None for the respondents.

ANIL KSHETARPAL, J. (ORAL)

As per office report, respondents No.1 and 2 have been served through their counsel in the trial Court. However, no one is present on their behalf.

Plaintiff-petitioner is in the revision petition against the order passed by the learned trial Court rejecting the application under Order 6 Rule 17, CPC for claiming alternative relief of compensation in a suit for specific performance of agreement to sell filed under the Specific Relief Act.

Learned counsel for the petitioner has pointed out that the parties have led their evidence and the alternative relief sought to be added does not require any evidence from the side of the plaintiff. He has drawn attention of the Court to Proviso of sub-section (5) of Section 21 to contend that the Court can at any stage of the proceedings allow the plaintiff to amend the plaint and seek such relief.

This Court has considered the submission. In a suit for specific performance of the agreement to sell, alternative relief cannot be granted unless it is prayed for. Provisions of Section 21 of the Specific Relief Act, 1963 are extracted as under:-

“21. Power to award compensation in certain cases.

- 1. In a suit for specific performance of a contract, the plaintiff may also claim compensation for its breach, either in addition to, or in substitution of, such performance.*
- 2. If, in any such suit, the court decides that specific performance ought not to be granted, but that there is a contract between the parties which has been broken by the defendant, and that the plaintiff is entitled to compensation for that breach, it shall award him such compensation accordingly.*
- 3. If, in any such suit, the court decides that specific performance ought to be granted, but that it is not sufficient to satisfy the justice of the case, and that some compensation for breach of the contract should also be made to the plaintiff, it shall award him such compensation accordingly.*
- 4. In determining the amount of any compensation awarded under this section, the court shall be guided by the principles specified in section 73 of the Indian Contract Act, 1872 (9 of 1872).*
- 5. No compensation shall be awarded under this section unless the plaintiff has claimed such compensation in his plaint: Provided that where the plaintiff has not claimed any such compensation in the plaint, the court shall, at any stage of the proceeding, allow him to amend the plaint on such terms as may be just, for including a claim for such compensation.”*

A careful reading of the Section 21, it becomes clear that the alternative relief can be permitted to be added at any stage. Learned counsel for the petitioner-plaintiff has already made a statement that his client does not require any opportunity to lead evidence.

Keeping in view the aforesaid facts, the order under challenge

is set aside. The petitioner-plaintiff is permitted to amend the plaint and the respondents-defendants shall be granted opportunity to lead any evidence to rebut the amendment, if sought for.

Revision petition is allowed.

05.04.2018
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

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