

In the High Court of Punjab and Haryana at Chandigarh

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Civil Revision No.4889 of 2015

.....

Date of decision:30.5.2018

Kuldeep Singh

.....Petitioner

v.

Veer Singh and another

.....Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. R.P.S. Ahluwalia, Advocate for the petitioner.

Mr. Deepak Sharma, Advocate for respondents 1 and 2.

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Inderjit Singh, J.

This civil revision petition has been filed under Article 227 of the Constitution of India for quashing the impugned order dated 6.7.2015 (Annexure-P.4) passed by the learned Civil Judge (Junior Division), Ambala, whereby the application filed by applicant-defendant No.2 under Order 14 Rule 1 CPC for framing of issues has been dismissed.

Notice of motion was issued in this case.

Mr. Deepak Sharma, learned Advocate has put in appearance on behalf of the respondents and contested this petition.

I have heard learned counsel for the parties and have gone through the record.

From the record, I find that Veer Singh and Shyam Chand-

plaintiffs filed suit against Gurdial Singh deceased through his LR Kuldeep Singh and Kuldeep Singh-defendants for specific performance of agreement to sell dated 27.6.2003 executed by the defendant in favour of plaintiff regarding land as fully described in the head note of the plaint. During the pendency of the suit, an application under Order 14 Rule 1 CPC for framing of issues had been filed by the applicant-defendant No.2, who stated that the plaintiffs had filed the suit for specific performance of agreement to sell dated 27.6.2003 of the land measuring 322 sq. yards and has further challenged the release deed executed by defendant No.1 in favour of defendant No.2. It has been alleged by the applicant that the plaintiffs had already sold plot measuring more than 1000 sq. yards including the passage/ street given by the plaintiffs to the plot holders, but despite taking of such stand, the Court has not framed issue in this regard and has prayed for framing of issue as under:-

Whether the plaintiff has sold more than 1000 sq. yards including passage/street given to the plot holders? OPD.

The plaintiffs contested this application by stating that the present application had been moved at the fag end of the trial when the case was posted at rebuttal evidence. Additional issues were also framed in the year 2013. Both the parties had led their evidence in this regard and if the present application is allowed it would amount to *de novo* trial.

The learned Civil Judge (Junior Division), Ambala, dismissed the application by stating that there is no requirement of framing of issue qua the fact that the plaintiffs had sold more land including passage etc. Aggrieved from this order, the present civil revision petition has been filed.

After going through the record, I find that the impugned order dated 6.7.2015 passed by the learned Civil Judge (Junior Division), Ambala, is correct as per law. The suit of the plaintiffs is for specific performance of the agreement. The main issue to be decided by the Court is whether the defendants entered into agreement to sell with the plaintiffs. It is for the Court at the time of final disposal of the case to look into the evidence and to decide whether the agreement can be specifically enforced or not or whether the alternative relief is to be given regarding recovery etc. The issue as alleged by defendant No.2 in the application is not necessary issue to decide the rights of the parties substantially and finally. There is no requirement to frame this issue in the present case. Further more, it is in the reply of the applicants that the additional issues have already been framed in this case. The present case is stated to be fixed for rebuttal evidence and at this belated stage the application has been filed to delay the proceedings of the case. The impugned order dated 6.7.2015 passed by the learned Civil Judge (Junior Division), Ambala, is correct as per evidence and law, which does not require any interference from this Court and the same is upheld.

Finding no merit in this civil revision petition, the same is accordingly dismissed.

May 30, 2018.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No