

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

224 (1)

CR-6083-2016

Suresh Devi

.....Petitioner

Versus

Baljeet Singh and others

.....Respondents

(2)

CR-6085-2016

Suresh Devi

.....Petitioner

Versus

Baljeet Singh and others

.....Respondents

(3)

CR-6126-2016

Suresh Devi

.....Petitioner

Versus

Baljeet Singh and others

.....Respondents

Date of Decision:05.04.2018

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

**Present: Mr. Sumit Sangwan, Advocate,
for the petitioner.**

None for the respondents.

HARI PAL VERMA, J.(Oral)

**These identical civil revision petitions bearing CR-6083-2016
(Suresh Devi Versus Baljeet Singh and others), CR-6085-2016 (Suresh
Devi Versus Baljeet Singh and others) and CR-6126-2016 (Suresh Devi
Versus Baljeet Singh and others), are being decided together, by this**

common order as all the revision petitions are arising out of the same impugned order. However, for the facility of reference, facts are being culled out from **CR-6083-2016**.

Petitioner has filed the present revision petition under Article 227 of the Constitution of India for setting aside the order dated 02.09.2016 passed by learned Additional Civil Judge (Senior Division) Charkhi Dadri, whereby the application filed by petitioner-defendant No.3 Suresh Devi for framing additional issue, was dismissed.

Briefly stated, respondent-plaintiff Baljit Singh has filed a suit for specific performance of the agreement to sell dated 27.9.2011 regarding suit land as detailed in the plaint. The petitioner purchased the suit property from Sanjay son of Balbir (defendant No.2) on 08.06.2012, whereas Sanjay had purchased this land from Subhash son of Sohan (defendant No.1) on 29.05.2012. Accordingly, petitioner-Suresh Devi and Sanjay son of Balbir being subsequent purchasers were impleaded as defendant Nos.2 and 3, respectively. Learned trial court vide order dated 09.12.2013 framed the issues and one of the issues framed therein was "Whether the plaintiff is entitled for the relief of specific performance of agreement to sell dated 27.9.2011? OPP". As the petitioner purchased this land from defendant No.2 on 08.06.2012, the petitioner claiming herself to be a bonafide purchaser filed an application for framing this additional issue. However, the trial court vide order dated 02.09.2016 dismissed the application of the petitioner observing therein that even if no such specific issue has been framed regarding the petitioner being a bonafide purchaser, the plea would be decided by the trial court while returning findings on issue Nos.1, 2 and 3. Issue Nos.1, 2 and 3 are reproduced as under:-

“1. Whether the plaintiff and defendants had entered into an agreement to sell dated 27.09.2011, if so to its effect?OPP

2. Whether the plaintiff has been always ready and willing to perform his part of contract dated 27.09.2011?OPP

3. If issue No.2 and 3 are proved, whether the plaintiff is entitled for the relief of specific performance of agreement to sell dated 27.09.2011?OPD”

Learned counsel for the petitioner has argued that the trial court should have framed an additional issue for the just decision of the case and once the petitioner being a bonafide purchaser has been impleaded as a defendant and has taken a specific plea, the court was required to frame such issue. Moreover, framing of such issue would avoid multiplicity of proceedings. It would not cause any serious prejudice to the plaintiff rather it would facilitate the trial court to return its findings. The controversy goes directly to the roots of the case and in case additional issue is not framed in the case, it would defeat the cause of the petitioner-defendant No.3.

No one is present on behalf of the respondents despite service.

I have heard the learned counsel for the petitioner.

The provision under Order 14 Rule 1 CPC regarding framing of issues reads as under:-

“(1) Issues arise when a material proposition of fact or law is affirmed by the one party and denied by the other.

(2) Material propositions are those propositions of law or fact which a plaintiff must allege in order to show a right to sue or a defendant must allege in order to constitute his defence.

(3) Each material proposition affirmed by one party and denied by the other shall form the subject of a distinct

issue.

(4) Issues are of two kinds:

(a) Issues of fact,

(b) Issues of law

(5) At the first hearing of the suit the Court shall, after reading the plaint and the written statements, if any, and [after examination under rule 2 of Order X and after hearing the parties or their pleaders], ascertain upon what material propositions of fact or of law the parties are at variance, and shall thereupon proceed to frame and record the issues on which the right decision of the case appears to depend.

(6) Nothing in this rule requires the Court to frame and record issues where the defendant at the first hearing of the suit makes no defence.”

There is no dispute that the petitioner has been added as defendant No.3 in the suit and therefore, is a contesting defendant. The petitioner has pleaded herself to be a bonafide purchaser of the suit land from Sanjay (defendant No.2) vide sale-deed dated 08.06.2012. However, defendant No.2(Sanjay) had purchased this property from defendant No.1 (Subhash) vide sale-deed dated 29.05.2012, whereas vide agreement to sell dated 27.09.2011, the agreement was executed between the respondent-plaintiff and defendant No.1-Subhash. Therefore, this Court finds that in order to avoid multiplicity of proceedings, the civil court should have framed an additional issue, more particularly when the petitioner-defendant No.3 along with defendant No.2 were impleaded as bonafide purchasers.

Accordingly, while relying on the case of **Gursharan Singh Versus Saravjot Singh and others**, 2016(1) PLJ 338, this Court finds that in order to facilitate the court to arrive at a just conclusion in the context of

controversy between the parties. The proposed issues as sought by the petitioner-defendant are in consonance with the issues which require adjudication. Moreover, the parties are required to lead specific evidence so as to facilitate the court to decide the controversy between the parties.

Accordingly, the present revision petitions are allowed and the order dated 02.09.2016 is set aside. The trial court is directed to frame an additional issue. The trial court would make an endeavour to conclude the suit after providing necessary opportunities to the parties to lead evidence on the additional issues as expeditiously as possible.

April 05, 2018
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(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No