

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

130

CR No.6254 of 2016 (O&M)

Date of decision: 16.05.2018

Gurtej Singh and another

..... Petitioners

Versus

Guro Kaur and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present:- Mr. J.S. Brar, Advocate  
for the petitioners.

Mr. Naresh Jain, Advocate  
for respondents No.1 to 6.

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**ANIL KSHETARPAL, J. (ORAL)**

It has been repeated notice that the learned trial Courts do not frame the issues as provided under Order 14 of the Code of Civil Procedure. It has been noticed that the Courts framed the issues only on the basis of prayer made in the suit which is not in consonance with Order 14 Rule 1, CPC. Order 14 Rule 1, CPC provide that each material proposition affirmed by one party and denied by the other shall form the subject matter of a distinguish issue. Sub-rule 4 of Order 14 Rule 1 provides that issues can be of two types, issue of fact and issue of law. A bare look at the issues framed by the Court in the present case does not show that the Court framed the issues in accordance with Order 14. The issues framed by the trial Court on 15.11.2010 are extracted as under:-

*“1. Whether the plaintiff is entitled for possession as prayed for?OPP*

*2. Whether the plaintiff is entitled for declaration as prayed*

*for?OPP*

3. *Whether the suit is not maintainable on account of non-joinder of necessary parties?OPD*

4. *Relief.”*

A bare look at the pleadings filed by the petitioner-defendant show that there was a registered sale deed dated 19.11.1967 as pleaded in Para 1 of the written statement. The plaintiff filed the replication. The replication was taken on record. However, the Court without looking into the pleadings of the parties framed the issues only on the basis of pleadings. Now by way of impugned order, the learned trial Court rather than re-framing the issues or framing the issues afresh, has chosen to observe that the replication is not part of the file as no permission was sought. The replication was filed on 15.11.2010 as noticed in the order. The Court adjourned the case noticing that the replication has not been filed on 10.09.2010 and 30.09.2010. Now at this stage, it is not correct on the part of the learned trial Court to observe that the replication has not been filed with permission of the Court and therefore, it is not part of the file.

In view of the discussion made above, the order under challenge is set aside. Learned trial Court is directed to frame proper issues.

Needless to notice that the defendants have already made a statement that they do not wish to lead any evidence after proper issues had framed.

Revision petition is allowed.

( ANIL KSHETARPAL )  
JUDGE

**16.05.2018**  
Dinesh Bansal

Whether speaking/reasoned  
Whether Reportable

Yes / No  
Yes / No