

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

CR No.5937 of 2017

Date of decision : 01.06.2018

Gurmit Kaur and others

...Petitioners

Versus

Joginder Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Parminder Singh, Advocate for the petitioners.

Mr. C.B. Goel, Advocate for respondent Nos.1 to 4.

ANIL KSHETARPAL, J. (ORAL)

It has been repeatedly noticed that learned Civil Judges are not framing the issues in accordance with the provision of Order 14 of the Code of Civil Procedure.

This Court has time and again requested the Civil Judges to examine the pleadings and thereafter frame appropriate issues. The issues are not to be framed on the basis of the prayer made in the suit. A separate issue is required to be framed on each material proposition affirmed by one party and denied by the other. The issues are of two kinds, issue of fact and issue of law. However, it has been noticed that the learned Civil Judges are not following the mandate of law. Order 14 Rule 1 CPC, which provides for framing of the issues is extracted as under:-

***“ORDER XIV-SETTLEMENT OF ISSUES AND
DETERMINATION OF SUIT ON ISSUES OF LAW OR
ON ISSUES AGREED UPON***

1. Framing of issues—(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 denied by the other shall form the subject of 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.”

Framing of the issues is an important step through which parties as well as the Court come to know as to what is to be proved by each of them, because while framing the issues, the Court also places onus of proving such issues on respective parties in the suit. In this case also, Civil Judge framed the issues simply on the basis of the prayer made in the suit. The issues as framed by the Court are extracted as under:-

“1. Whether the plaintiff is entitled to a decree for permanent injunction, as prayed for? OPP

2. Whether the suit of the plaintiff is not legally maintainable? OPD

3. *Whether the plaintiff has not come before this Court with clean hands and concealed true and material facts from the Court? OPD*

4. *Relief.”*

The defendants after amendment of the pleadings filed an application for framing of the proper issues, however, the learned Civil Judge (Junior Division) dismissed the application on the ground that the issues framed are comprehensive in nature and, therefore, there is no need to re-frame the issues.

Under Order 14 Rule 1 CPC, there is no concept of framing comprehensive issue. Each material proposition affirmed by one party and denied by the other has to form the subject of a distinct issue which may be issue of fact or issue of law. Reference in this regard can be made to the judgment passed by this Court on 31.10.2017 while deciding **CR No.1737 of 2017 titled as Gaurav Goel Vs. Ramji Dass and others.**

In view thereof, without further elaborating, the order under challenge is set aside. Civil Court at trial stage should not normally hesitate in proper issues unless the application filed is not bonafide.

Revision petition is allowed.

Learned Civil Judge (Junior Division) is directed to frame the proper issues in accordance with Order 14 of the Code of Civil Procedure.

01.06.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No