

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CR No.6847 of 2018(O&M)  
Date of Decision: 08.10.2018

Kuldeep Singh

.....Petitioner

Versus

Bhupinder Kumar

.....Respondent

**CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH**

Present: Mr. H.P.S. Ghuman, Advocate  
for the petitioner.

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**RAJ MOHAN SINGH, J.**

[1]. Defendant/petitioner is in revision petition against the order dated 05.09.2018 passed by Additional Civil Judge (Senior Division), Nabha vide which application under Order 14 Rule 5 read with Section 151 CPC for framing of additional issues was dismissed.

[2]. Plaintiff/respondent filed a suit for recovery of Rs.14,74,000/- i.e. (Rs.11,00,000/- as principal amount and Rs.3,74,000/- as interest w.e.f 10.10.2013 to 15.08.2016 @ 1% per month) along with *pendente lite* interest @ 1% per month from the date of filing of the suit till the date of decree and future interest @ 6% per annum from the date of decree till final

realization of the amount.

[3]. Both the parties went to trial on the following issues:-

*“1. Whether the plaintiff is entitled for recovery of Rs.11,00,000/- as claimed? OPP*

*2. Whether the plaintiff is entitled for interest, if so at what rate? OPP*

*3. Whether the pronote and receipt are forged and fabricated documents and without consideration? OPD*

*4. Whether the suit is not maintainable? OPD*

*5. Relief.”*

[4]. Perusal of issue No.1 would show that in order to prove entitlement of the plaintiff for recovery of Rs.11,00,000/-, onus was on the plaintiff himself to prove the aforesaid issue.

[5]. Petitioner moved an application for framing of following additional issues:-

*“Issue No.4-A. Whether the plaintiff is not in a capacity to advance this much huge amount of Rs.11.00 lakhs? If so, its effect? OPD*

*Issue No.4-B. Whether the plaintiff has got no cause of action or locus standi to file the present suit? OPD*

*Issue No.4-C. Whether there are material alteration in the pronote and receipt in dispute? OPD”*

[6]. During course of arguments, learned counsel for the petitioner pressed for issue No.4-A only on the ground that there has to be a specific issue for adjudication by the trial Court. The capacity to advance the amount to the tune of Rs.11,00,000/-

has to be proved by the plaintiff in order to answer the proposed claim in the suit.

[7]. Learned counsel for the petitioner relied upon **United India Insurance Company Vs. Jarnail Singh, 2002(4) RCR (Civil) 125** and contended that framing of issue is *sine quo non* for adjudication of the issue on merits.

[8]. The aforesaid precedent is not in respect of the proposition where such type of issue is required to be framed particularly when the scope of proposed issue is already covered under original issue No.1 framed by the trial Court on 17.05.2017.

[9]. Evidently, the suit was filed on the basis of pronote and receipt. Issue No.1 was framed as to the entitlement of the plaintiff as claimed. The onus to prove issue No.1 is on the plaintiff himself. The scope of proposed issue No.4-A is very much covered under original issue No.1. Issue No.1 can only be decided after proving the financial capacity of the plaintiff to advance the amount of loan to the defendant/petitioner.

[10]. Perusal of the record would also show that the plaintiff has already concluded his evidence and the case is fixed for defendant's evidence. Since the plaintiff has already led his evidence in the context of his capacity to advance the loan in question, therefore, at this stage framing of additional issue that

too, within the scope of original issue No.1 would not be in the interest of justice.

[11]. In my considered opinion, there is no illegality committed by the trial Court while dismissing the application under Order 14 Rule 5 read with Section 151 CPC. Both the parties are well conversant with the case of each other. Issue No.1 framed on 17.05.2017 would suffice to answer the scope of proposed issue as well.

[12]. In view of above, I do not see any justification to interfere in the impugned order dated 05.09.2018 passed by Additional Civil Judge (Senior Division), Nabha. This revision petition is found to be totally devoid of merits and the same is accordingly dismissed.

October 08, 2018  
*Prince*

**(RAJ MOHAN SINGH)**  
**JUDGE**

**Whether reasoned/speaking**  
**Whether reportable**

**Yes/No**  
**Yes/No**