

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

**CR No.5444 of 2018
Date of Decision:25.09.2019**

VINOD KUMAR

...Petitioner

Versus

SANT KUMAR

..Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Jagjeet Beniwal, Advocate
for the petitioner.

Mr. Sandeep Thakan, Advocate
for the respondent.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 13.07.2018 passed by the Civil Judge (Junior Division), Bhiwani (for short-the Trial Court) dismissing an application filed by the petitioner seeking therein to lead additional evidence.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition, are that the petitioner filed a suit seeking therein specific performance of an agreement dated 23.02.2012 in respect of land detailed and described in the head-note of the plaint (for short-the suit property). Permanent injunction to restrain the respondent from alienating/transferring the suit property or creating any encumbrances thereupon was also sought.

On being put to notice, the respondent, who was the sole

defendant in the suit, appeared before the Trial Court and not only denied the aforesaid agreement but also submitted that the agreement which has been made basis of the petitioner's suit had been forged by him with the intention of grabbing the suit property. The Trial Court framed issues on which both the parties led their respective evidence. When the matter was listed for final arguments, an application was filed by the petitioner seeking therein to lead additional evidence in the form of the comparison of the respondent's signatures with his admitted signatures on the agreement in question. The Trial Court dismissed the application through the order under challenge in the present proceedings.

Learned counsel for the parties have been heard.

In the year 2013, the petitioner filed his suit seeking therein specific performance of agreement to sell dated 23.02.2012. On being put to notice, the respondent put in appearance before the Trial Court and way back in February, 2014 filed his written statement through which he not only denied the aforesaid agreement, which was the basis of the petitioner's suit, but also submitted that such agreement had been forged by the petitioner with the intention to grab the suit property.

That being so, it was for the petitioner to lead evidence in the affirmative to prove the genuineness of the agreement in question, including the signatures thereupon, for which, admittedly, adequate opportunities were granted to him by the Trial Court. Having failed to do so such opportunity cannot be allowed to be given to the petitioner at the fag end of the trial, especially after the respondent has led his entire evidence in his defence as also when in his written statement itself, filed way back in February, 2014, the respondent had denied the very existence of the

agreement in question and termed the same as a result of forgery by the petitioner.

Dismissed.

September 25, 2019

Jyoti-IV

(DEEPAK SIBAL)
JUDGE

Whether speaking/reasoned Yes/No Whether Reportable Yes/No