

CR-5130-2015 (O&M)

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

CR-5130-2015 (O&M)

Date of decision : 27.05.2019

Surinder Singh

... Petitioner

Versus

Amrinder Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Deepak Bhardwaj, Advocate for the petitioner.

Mr. Siddharth Gupta, Advocate for
Mr. Deepinder Brar, Advocate for respondent No.1.

AMIT RAWAL, J. (ORAL)

The present revision petition is directed against the impugned order dated 22.04.2015 passed in a suit of 09.08.2008, seeking specific performance of agreement to sell, whereby the application for amendment of the plaint claiming alternative relief, has been allowed.

Mr. Deepak Bhardwaj, learned counsel appearing on behalf of the petitioner submitted that in a criminal proceeding, the petitioner has already paid the entire earnest money. It was a case of fraud, therefore, application for amendment of plaint qua alternative relief should not have been allowed as the trial has already been commenced. The aforementioned relief is also time-barred as it will not relate back to the institution of the suit. There was no exercise of 'Due Diligence' as per the amended provisions of Order 6 Rule 17 of CPC.

Mr. Siddharth Gupta, learned counsel appearing on behalf of respondent No.1 submitted that aforementioned amendment is essential and

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necessary. No harm and prejudice would be caused as the parties would be at liberty to lead evidence in support of the amendment and the trial Court can consider all the objections at the final stage, thus, urges this Court for dismissal of the present revision petition.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Bhardwaj.

This Court, while issuing notice of motion, on 13.08.2015 had stayed the passing of the final order.

By considering the arguments of Mr. Bhardwaj with regard to some compromise, the same can always be brought on record through evidence and the Court below will consider as to whether the plaintiff is entitled to discretionary relief or alternative, but the fact of the matter is that the amendment is essential and necessary, in such type of suits, seeking specific performance of agreement. All these objections are kept open and shall be taken up by the petitioner-defendant, at the relevant stage or in the amended written statement, which the trial Court shall consider, in accordance with law.

Keeping in view the aforementioned facts, the impugned order, under challenge cannot be said to be fallacious and infirm, much less, without jurisdiction and the same is hereby upheld. Resultantly, the present revision petition is dismissed.

27.05.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

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