

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

**CR No. 3992 of 2015 (O&M)
Date of Decision: 27.01.2020**

Chander Parkash Malhotra (Dead)
through LR Dinesh Kumar Malhotra

.... Petitioner

Versus

RBS Chahal and another

... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Dinesh Malhotra, Advocate
for the petitioner.

Mr. RBS Chahal-respondent No. 1 in person.

ANIL KSHETARPAL, J. (ORAL)

The present revision petition has been filed against the order passed by learned trial Court disposing of an application with a prayer to frame additional issues. Learned trial Court while passing the order has observed that issue no. 1, already framed, includes the entire dispute regarding declaration and the issues which the plaintiff now calls upon the Court to frame, would not be required. The relevant observations made by the learned trial Court are as under:-

“So it means that in the present case issues have been framed as per the pleadings of the parties. Further I have thoroughly gone through the order of Hon'ble High Court in which the Hon'ble High Court has directed the parties to give draft issues but from the perusal of the file it reveals out that on 06.02.2014 amended written statement has been filed and the case was fixed for 10.02.2014 and on 10.02.2014, the parties to the present case have not filed the proposed or draft issues nor the plaintiff has filed the replication and vide order dated 10.02.2014 issues have been framed taking into consideration the pleadings of the

parties and after that the case was fixed for plaintiff evidence. Further from the perusal of issue No. 1, it is clear that this issue includes the entire dispute regarding declaration and the issues which the plaintiff now wants to frame are covered by this issue and the plaintiff has every legal right to lead evidence regarding all the issues which he wants to frame in this issue and all the issues regarding the fact that whether payment was made as per the law or not, whether the payment was made or not will be taken in this issue because in this issue the onus is upon the plaintiff and the plaintiff has to prove that the defendant has not made the payment as per law and he has every legal right to give evidence on all the proposed issues which he wanted to be framed. However, there is no necessity for framing additional issues as proposed by the plaintiff and further from the perusal of the proposed issues, it is clear that these are of legal points which are to be taken into consideration while arguments and the plaintiff has the right to lead evidence on all the points while proving issue No. 1 as all these issues are covered in issue No. 1. Further from the perusal of the file, it transpires that the plaintiff in the present case is filing applications one after the other, as this case was received by the undersigned on 04.02.2014 and then on 05.02.2014 application under Order 17 Rule 3 was dismissed and thereafter on 12.02.2014 the suit of the plaintiff was dismissed in default and thereafter it was restored on 08.08.2014 and after that the plaintiff has moved an application under Section 114 read with Order 47 Rule 1 CPC which was dismissed by the Court and thereafter plaintiff again moved an application under Section 151 CPC which has also been dismissed by the Court and after that plaintiff has filed this present application, which clearly shows that plaintiff is not

interested in pursuing his case and he is filing one application after the other and even the present application as per the above discussion is without any merits and the same is hereby dismissed. Plaintiff is directed to lead his evidence on the next date i.e. 11.09.2014.”

Once the learned trial Court has already observed that issue no. 1 already framed includes the entire dispute and the plaintiff can be permitted to lead evidence with respect to the proposed issues, this Court does not find any good ground to interfere.

Accordingly, the present petition is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

(ANIL KSHETARPAL)
JUDGE

27.01.2020
Maninder

Whether speaking/reasoned	:	Yes
Whether reportable	:	No