

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

104+207

CR-999-2019 (O&M)
Date of decision: 03.03.2021

JEET SINGH

...Petitioner

Versus

CHARANJIT SINGH AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present : Mr. Vikas Bahl, Sr. Advocate with
Mr. Akshay Rawal, Advocate for the petitioner.

Mr. Karan Nehra, Advocate for respondent No.1 to 3.

ANIL KSHETARPAL, J. (Oral)

CM No.2392-CII of 2021

Allowed as prayed for. Annexure A1 is taken on record.

Main Case

Defendant No.1 after having lost before the trial Court in a suit for specific performance of the agreement to sell has filed appeal before the First Appellate Court. During the pendency of the appeal, he filed an application for permission to amend the written statement. Through the proposed amendment, defendant No.1 now wants to plead that defendant No.2 to 4 and the plaintiff belong to same group. The First Appellate Court after examining the facts of the case has dismissed the application by passing a detailed order.

Heard learned counsel for the parties at some length.

The plaintiff filed a suit for specific performance of agreement to sell executed by defendant No.1 on 30.07.2002 which was extended on

09.12.2002 and 31.12.2002. The plaintiff also sought a decree for declaration that sale deed executed by defendant No.1 in favour of defendant No.2 to 4 does not bind the rights of the plaintiff. Defendants contested the suit and filed their written statement. Para 3 and 4 of the preliminary objections reads as under:-

3. That the answering defendant has his joint property with Gurdeep Singh, Darshan Singh, Gurmukh Singh and Gurcharan Singh sons of Gurnam Singh who is the real brother of answering defendant. There was a dispute regarding partition between the defendant and his co-sharers i.e. sons of his brother and other co-sharer. The plaintiff and his partner earlier purchase near about 14 bigha land from sons of Gurnam Singh brother of the answering defendant which was joint land with the answering defendant. The plaintiff Charanjit Singh wanted to get the specific Khasra numbers from the co-sharers i.e. sons of Gurdeep Singh. In the light of the above said minor dispute a gathering was convened for resolving the said dispute between answering defendant and sons of Gurdeep Singh, in the said gathering the matter was compromised between the parties and the parties agreed to end the dispute and it was also agreed that the parties shall withdraw all the proceedings pending against each others. The plaintiff

No.1 was one of the said compromise. Afterwords on the instance of the plaintiff No.1 it was decided that a compromise be reduced into writing on the stamp papers. The plaintiff No.1 in connivance with other plaintiff misrepresented the facts and got typed the alleged agreement to sell in favour of the plaintiffs taking the advantage of illiteracy of the answering defendants and on the faith upon the plaintiff and Gurnam Singh. The alleged agreement to sell is a false, frivolous and vexatious being result of fraud and misrepresentations and without consideration. The answering defendant never received any amount of Rs.8 lacs from the plaintiffs at any point of times.

4. The alleged agreement to sell itself speaks about the contents of the fraud and it has been alleged that alleged agreement to sell was executed on 30.07.2002. However, no date of execution has been mentioned on the alleged agreement to sell. In fact at the time of compromise between the answering defendant and sons of Gurnam Singh, the plaintiff No.1 who was the party to resolving the matter got some signatures of answering defendants in respect of the compromise between Gurnam Singh and answering defendants and later on the same has been misrepresented the facts on the same signatures. These

facts clearly shown that a fraud has been played upon the answering defendant by the plaintiffs with intention to grab the precious property of answering defendant on a miserable price.

It is apparent from the reading of the written statement that the defendant had already pleaded fraud and misrepresentation. He had also pleaded various other defences. Now by way of amendment, defendant No.1 wants to reopen the entire case. As per proviso to Order 6 Rule 17 CPC, no amendment after the commencement of the trial can be allowed unless parties show due diligence. In the present case, the First Appellate Court has recorded cogent reasons to decline the request for permission to amend the written statement.

In absence of any perversity, this Court while exercising revisional jurisdiction do not find it appropriate to interfere in the order impugned.

Dismissed.

03.03.2021

ashok

Whether speaking/reasoned:

Whether reportable:

(ANIL KSHETARPAL)

JUDGE

Yes / No

Yes / No