

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

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**Civil Revision No.1495 of 2021 (O&M)
Date of Decision: August 10, 2021**

Pardeep Kumar

.....Petitioner.

VERSUS

Krishan Kumar

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE G. S. SANDHAWALIA

Present: Dr. Deepak Jindal, Advocate
for the petitioner.

(The proceedings are being conducted through video
conferencing, as per instructions)

G.S. SANDHAWALIA, J.(Oral)

Petitioner-plaintiff challenges the order dated 17.03.2021, whereby learned Civil Judge (Junior Division), Chandigarh declined the application filed under Section 151 CPC for leading additional evidence. The reasoning given by the Court below is that the suit pertains to the relief of specific performance of agreement to sell dated 08/12.05.2008 with respect to booth No.209, Shastri Market, Sector 22-C, Chandigarh and the documents, which are sought to be brought on record are pertaining to the year 1994. As per the documents, the defendant had agreed to sell the said booth and executed an agreement, a GPA and a Will and therefore, are not relevant, as such, to decide the controversy between the parties. It was noticed that in the cross-examination conducted on 16.02.2018, the defendant had also admitted the said agreement on an earlier point of time

with Gagan Chaudhary. The trial Court came to the conclusion that way back in the year 2018 also, petitioner-plaintiff knew regarding the factum of these documents, which he has now sought to be produced on record and had failed to move an application at an earlier point of time.

It was also noticed that factual arguments of both the counsel had been concluded and only the law points were left to be submitted. Therefore, the application was dismissed, by placing reliance on Section 52 of the Indian Evidence Act.

The issues, which were framed in the suit, read as under:-

- (a) Whether plaintiff is entitled to relief of specific performance of agreement to sell dated 8.5.2008/12.5.2008? OPP
- (b) Whether the plaintiff is entitled to the relief of mandatory injunction? OPP
- (c) Whether the plaintiff is entitled to the relief of permanent injunction? OPP
- (d) Whether the suit is not maintainable? OPD
- (e) Whether the plaintiff has concealed the true and material facts from the Court? OPD
- (f) Whether no cause of action accrued in favour of the plaintiff? OPD
- (g) Relief.

Thus, it is apparent that controversy, which is before the trial Court, as such, is regarding the agreement to sell inter se the parties and whether the petitioner-plaintiff is entitled for the injunction. The Court below was correct to hold out that no effort, as such, has been made to lead the additional evidence for the last more than 3 years though being aware of the execution of the documents of the year 1994 at the time of cross-

examination. Even otherwise, this Court is in agreement with the trial Court that bringing the documents on record, as such, would not help the case of the plaintiff in any manner as these are not relevant documents to decide the controversy between the parties.

Accordingly, the present revision petition, as such, filed under Article 227 of the Constitution of India against the impugned order is dismissed in the absence of any irregularity or illegality being found in the impugned order.

(G. S. SANDHAWALIA)
JUDGE

August 10, 2021

Sachin M.

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*