

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

118

CR No.2938 of 2021.

Date of Decision: 24.11.2021.

Bachan Singh

...Petitioner

Versus

Smt. Rattno Devi

... Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. J.S. Bhandohal, Advocate
for the petitioner.

ANIL KSHETARPAL J. (ORAL)

The petitioner is the defendant in a suit for specific performance of the agreement to sell along with consequential relief of permanent injunction and in the alternative a suit for recovery of the amount. The defendant assails the correctness of the order of the trial Court disallowing him to amend his written statement. The said application was filed at the stage of defendant's evidence. The suit is pending for the last four years. From the reading of the unamended written statement, it is evident that the defendant has already asserted the factual aspects in his defence.

Now through the application for permission to amend the written statement, the defendant intends to assert that on 26.01.2016 i.e. on the next day of the agreement to sell (executed on 25.01.2016), there was a written acknowledgement to the effect that the total sale consideration is Rs.80,00,000/- and not Rs.40,00,000/-.

The learned trial Court has dismissed the application on the ground of delay.

As per Order 6 Rule 2 of the Code of Civil Procedure 1908, every pleading is required to contain and contain only, a concise statement of the material facts on which the party relies for his claim or defence, as the case may be, but not the evidence by which they are to be proved. Hence, it is not necessary for a party to the suit to plead evidence.

Keeping in view the aforesaid facts, the revision petition is disposed of with the observation that if the trial Court while deciding the suit observes that the basic facts have been pleaded, the Court will take into consideration the evidence, if any, alleged, to prove them.

November 24, 2021
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(ANIL KSHETARPAL)
JUDGE

whether speaking/reasoned
whether reportable

Yes/No
Yes/No