

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

**CR-3239-2017 (O&M)**

Date of decision: 23.08.2022

Arya Prathinidhi Sabha

....Petitioner

Versus

Bandi Chhore Bhakti Mukti Trust and others

..Respondents

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Ashwani Bakshi, Advocate for the petitioner

**ANIL KSHETARPAL, J (Oral)**

Defendant no.4 assails the correctness of the order passed by the trial court on 20.04.2017, while dismissing its application for recasting the issues. It has been alleged that the plaintiff while filing the suit claims to be the owner in possession whereas defendant no.4 while filing a written statement claims that the alleged gift deed executed by Smt. Kamla and others on 20.04.1999, in favour of the plaintiff, is a result of impersonation and forgery.

The trial court has dismissed the application.

Heard the learned counsel representing the petitioner at length and with his able assistance perused the paperbook.

The issues framed by the trial court are extracted as under:-

“1. Whether the plaintiff is entitled for permanent injunction as prayed for? OPP.

2. Whether the suit is not maintainable? OPD

3. Whether the plaintiff has not come to the Court with clean hands? OPD.

4. Relief.”

It is evident that the issues have been framed on the basis of

prayer made in the suit. Order XIV Rule 1 of Code of Civil Procedure, 1908, requires the court to frame issues in accordance with the pleadings which have been confirmed by one party whereas denied by the other party. It also provides that issues are basically of two kinds namely issue of fact and issue of law. It is evident that the court has not framed any issue on the validity of the gift deed as alleged by the defendant, particularly, when while filing the replication the plaintiff claims the gift deed to be genuine. Hence, there is a material proposition which is asserted by one party and denied by the other party. It was required to be a subject matter of a distinct issue.

Keeping in view the aforesaid facts, the following additional issue is framed for adjudication:-

“Whether gift dated 20.04.1999 allegedly executed by Smt. Kamla and others in favour of the plaintiff is result of impersonation or forgery?OPD.”

With all these observations, the revision petition is disposed of.

All the pending miscellaneous applications, if any, are also disposed of.

23.08.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

**(ANIL KSHETARPAL)**  
**JUDGE**