**205**

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

**CR-3589-2018 (O&M)**
**Date of Decision:12.10.2022**

HARJINDER SINGH & ANOTHER **.. Petitioners**

**Vs.**

SATPAL SINGH AND ANOTHER **..Respondents**

**CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ**

Present: Ms. Ritu Punj, Advocate for the petitioners.

Ms. Arshdeep Kaur, Advocate for
Mr. Sukhjit Singh, Advocate
for respondent no.1.

...

**Manoj Bajaj, J. (Oral)**

Petitioners (defendants No.2 and 3) have challenged the order dated 16.05.2018, whereby their application for framing of additional issues was declined by Addl. Civil Judge (Sr. Divn.), Jagraon.

The brief facts of the case leading to the revision petition are that plaintiff (respondent No.1) brought a suit for possession by way of specific performance of agreement to sell dated 03.11.2006 executed by owner Harjit Singh (defendant No.1), who as a consequential relief, also prayed for setting aside the sale deed dated 26.06.2012 executed by defendant No.1 in favour of defendants No.2 and 3. Further, the plaintiff prayed for permanent injunction restraining the defendants from alienating the suit property in any manner.

The suit is being contested by the defendants, who filed separate written statements. The owner of the property (defendant No.1) filed his written statement dated 26.10.2012 (Annexure P-2), wherein he raised certain preliminary objections, and on merits, denied the averments

JASMINE KAUR
2022.10.20 13:55
I attest to the accuracy and
integrity of this document

made in the plaint and prayed for dismissal of the suit. Upon considering the pleadings of the plaintiff and defendant No.1, the trial Court vide order dated 20.08.2013 framed in all eight issues.

Thereafter, the written statement by defendants No.2 and 3 (petitioners) was allowed to be filed. As per the written statement dated 15.03.2014 filed by the petitioners, they have set up a defence by claiming themselves to be the bona fide purchasers for valuable consideration, as they had no knowledge of the agreement to sell dated 03.11.2006 executed between defendant No.1 and the plaintiff. In the end, it was prayed that the suit by the plaintiff be dismissed.

During the pendency of the suit, the petitioners moved an application for framing of additional issues and the same was contested by the plaintiff by filing reply. The trial Court vide impugned order dated 16.05.2018 proceeded to dismiss the said application.

Learned counsel for the petitioners has argued that once the petitioners were allowed to file written statement though after framing of the issues, it was incumbent for the trial Court to examine their stand in the written statement to frame additional issues. She has argued that the case of defendants No.2 and 3 is distinguishable from defendant No.1, as they hold the title of the suit property in their favour on the strength of the sale deed dated 22.06.2012 validly executed by defendant No.1. According to her, the sale deed is also under challenge in the suit, therefore, it would be in the interest of justice, if the relevant issue relating to their stand of bona fide purchaser for valuable consideration is framed. Learned counsel argued that the trial Court has failed to appreciate the background of the case and proceeded to dismiss the application merely on the ground that the parties

JASMINE KAUR
2022.10.20 13:55
I attest to the accuracy and
integrity of this document

have already adduced the evidence. She prays that the impugned order be set aside and the application filed by the petitioners for framing additional issues be allowed.

The prayer is opposed by the learned counsel for the respondent No.1 (plaintiff), who has argued that the trial Court has observed that the issues No.1 and 2 would cover the stand of the defendants No.2 and 3 as well, which relates to the maintainability of the suit and the alternative relief of recovery as prayed by the plaintiff. According to the learned counsel for the respondents, the trial Court has carefully examined the material on record and has rightly declined the prayer by the petitioners for framing additional issues. However, it is not disputed by the learned counsel that the written statement by the petitioners was filed after framing of the issues.

After hearing the learned counsel for the parties and considering the above background, this Court is of the considered opinion that the exercise of framing of issues upon consideration of pleadings is aimed to facilitate the rival parties to understand the case set up by them against each other, and the trial Court while dismissing the application has also observed that the parties are well aware about the case set up by them against each other, who have already led their respective evidence. The written statement by the petitioners shows that they have taken a specific stand that the suit property stood purchased by them on 22.06.2012, much before the filing of the suit, and they had no knowledge of the agreement to sell relied upon by the plaintiff, therefore, their case would be covered by the exception contained in Section 19 Specific Relief Act, 1963.

Thus, in the given background, the framing of additional issues appears to be a formality and though the parties have adduced the evidence,

JASMINE KAUR
2022.10.20 13:55
I attest to the accuracy and
integrity of this document

but in case, the formal issue in respect of the stand of petitioners is framed, no prejudice would be caused to the plaintiff.

Consequently**,** the impugned order is set aside and the application filed by the petitioners/defendant Nos.2 and 3 is allowed.

**(MANOJ BAJAJ)**
**JUDGE**

12.10.2022
***Jasmine Kaur***

Whether speaking/reasoned Yes No
Whether reportable Yes No

JASMINE KAUR
2022.10.20 13:55
I attest to the accuracy and
integrity of this document