

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 7253 of 2018

Date of Decision: 22.07.2022

Surinder Singh

... Petitioner(s)

Versus

Avtar Singh and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Ashok Kumar Khubbar, Advocate
for the petitioner(s).

Anil Kshetarpal, J.

1. The defendant, in a suit for recovery on the basis of agreement to sell, assails the correctness of the order passed on 09.10.2018 while dismissing the application for framing additional issue. It is the case of the defendants that the plaintiff was never ready and willing to perform his part of the contract. The learned trial Court, after examination of the pleadings, has culled out the following issues:-

- “1. *Whether the plaintiffs are entitled to a decree for recovery of ₹1,10,00,000/- as principal and interest, as prayed for? OPP.*
2. *Whether suit of the plaintiffs is not legally maintainable? OPD*
3. *Whether the plaintiffs have no locus standi or cause of action to file the present suit? OPD*
4. *Whether the plaintiffs are estopped by their own act and*

conduct from filing the present suit? OPD

5. *Whether the plaintiffs have concealed the true and material facts from the Court? OPD*

6. *Whether the plaint is liable to be rejected under Order 7 Rule 11 CPC? OPD*

7. *Relief”.*

2. Once there is an agreement to sell, the plaintiff can recover the amount only if he proves that he was not at fault which includes proving the readiness and willingness on his part at all times. The case is at the stage of final arguments.

3. Keeping in view the aforesaid facts, this revision petition is disposed of with the observation that the learned trial Court, while deciding the suit, will decide the aforesaid fact.

(Anil Kshetarpal)
Judge

July 22, 2022

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No