

CR-8315-2018(O&M) and
CR-3131-2019(O&M)

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

(1) CR-8315-2018(O&M)

Jagpal Singh through his LRs

...Petitioner

Versus

Sarabjit Singh and others

...Respondents

(2) CR-3131-2019(O&M)

Jagpal Singh through his LRs

...Petitioner

Versus

Surinder Singh and others

...Respondents

Date of decision:-2.12.2022

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Sunny K. Singla, Advocate
for the petitioner(s) in both cases.

Mr.Abhishek Goyal, Advocate
for respondent No.1 in CR-8315-2018.

H.S. MADAAN, J.

1. Vide this order, I shall dispose of two civil revision petitions
i.e. CR-8315-2018 and CR-3131-2019 filed on behalf of
revisionist/petitioner Jagpal Singh through his LRs.

2. Briefly stated, facts of the case are that plaintiff Darbara

Singh had filed a civil suit against Jagpal Singh seeking possession by way of specific performance of agreement to sell dated 27.4.1993 as well as writings dated 15.4.1996 and 14.4.1999 as well as agreement dated 11.1.2002 with regard to land measuring 57 bighas 3 biswas situated at village Himmtana, Tehsil Malerkotla, District Sangrur; in alternative seeking recovery of Rs.17,14,500/-. In that suit the plaintiff has craved for grant of permanent injunction also restraining the defendant from alienating the suit property to anybody else except the plaintiff.

3. The plaintiff Darbara Singh had filed a similar suit against defendant. The defendant was common in both the suits. On getting notice, the defendant appeared and filed written statements in both the suits. Issues on merits were framed. The plaintiff had adduced his evidence and cases were fixed for evidence of defendant when defendant filed two separate applications in both suits under Order 6 Rule 17 CPC to amend the written statements so as to add objection that suits filed by the plaintiffs are barred under Order 2 Rule 2 CPC since before filing the suits plaintiffs had filed Civil Suits No.244 and 233 dated 2.12.2022 for permanent injunction to restrain the defendant to sell the suit property in which, he pleaded that defendant always avoided the execution of sale deed in his favour and further in the suits filed earlier for permanent injunction, the plaintiffs had not sought any relief of specific performance of agreement to sell.

4. The applications were opposed on behalf of the plaintiffs. The trial Court vide common order dated 13.11.2018 had dismissed the applications observing that cause of action to file a suit for specific

performance of agreement to sell only arises after expiry of due date agreed between the parties for execution of the sale deed and before the expiry of said date as agreed between the parties to execute the sale deed, the simple suit for permanent injunction is maintainable and furthermore this objection can be decided at the time of giving verdict on the issue regarding maintainability of the suit and permission to amend written statement was not required.

5. This order dated 13.11.2018 left the defendant aggrieved and he has filed the present revision petitions prayed that the impugned order be set aside and applications filed by him seeking amendment of written statement be accepted.

4 I have heard learned counsel for the parties besides going through the record and I find that the revision petitions are devoid of any merit and are liable to be dismissed.

5. The objection sought to be taken by the defendant that the suit is barred under Order 2 Rule 2 CPC is legal in nature, which can be raised at any stage and no amendment of written statement to incorporate this petition is required. As has been rightly observed by the trial Court in the impugned order, this objection is covered by the issue framed by the Court with regard to maintainability of the suit and counsel for the defendant can raise this plea while addressing the Court on the point of maintainability of the suit and even otherwise submit that suit is barred under Order 2 Rule 2 CPC explaining the reason for his saying so.

6. Therefore, the trial Court did not do anything wrong in dismissing the applications seeking amendment of the written statements.

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The revision petitions filed against that order are doomed for failure and
are dismissed accordingly.

2.12.2022
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : **Yes/No**

Whether reportable : **Yes/No**