

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

CIVIL REVISION No.1311 of 2020 (O&M)

DATE OF DECISION : 25.05.2022

Kanta Devi and Others

.....Petitioners

versus

Paripuran Singh and Others

.....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Robin Dutt, Advocate for the petitioners

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ALKA SARIN, J. (Oral):

The present petition has been filed under Article 227 of the Constitution of India impugning the order dated 12.02.2020 vide which the application filed by the plaintiff-petitioners for framing an additional issue was dismissed.

The brief facts relevant to the present *lis* are that a suit for declaration as well as for permanent injunction and, in the alternative, for possession was filed by the plaintiff-petitioners in the year 2015. On 19.09.2016 the following issues were framed:

1. Whether the plaintiff is entitled to grant of decree or (*sic*) declaration as prayed for? OPD
2. Whether the plaintiff is entitled to grant of consequential relief of permanent injunction as prayed for? OPD

3. Whether the plaintiff has no locus standi and cause of action to file and maintain the instant suit? OPD
4. Whether the suit of the plaintiff is improperly valued for the purpose of court fee and jurisdiction? OPD
5. Whether the suit of the plaintiff is bad for misjoinder of cause of action and misjoinder and non-joinder of necessary parties? OPD
6. Relief.

Thereafter, the parties led their evidence. The evidence of the plaintiff-petitioners was closed as far back as on 13.11.2017. The defendant-respondents also closed their evidence. At the stage of arguments, the application (Annexure P-5) was filed on 05.12.2019 for framing of an additional issue. The said application was contested by the defendant-respondents and vide the impugned order dated 12.02.2020 the same was dismissed.

Learned counsel for the plaintiff-petitioners would contend that the said issue is a necessary issue in as much as it would give clarity to the judgment and decree which is to be passed by the Court below. It is further the contention that an additional issue can be framed at any point of time. The learned counsel further contends that the evidence qua the said issue has already been led and hence framing of an additional issue would not amount to delay of proceedings.

Heard.

In the present case the suit was filed as far back as in 2015. On 19.09.2016 the issues were framed. A perusal of the order dated 19.09.2016

(Annexure P-4) clearly reveals that besides the issues framed by the Court no other issue was presented or claimed. Thereafter, the parties led their evidence and it was only at the stage of arguments that the present application for framing of an additional issue was moved. The said application came to be dismissed vide order dated 12.02.2020.

A perusal of the impugned order reveals that the Trial Court has held that issue No.1 was wide enough to cover the entire controversy on all parameters for possession of the land of the plaintiffs on the basis of the sale deed dated 30.05.1983 and on the basis of cancellation of other sale deeds dated 31.03.1989, 13.12.2005, 07.04.2012 and 05.02.2014 as well as mutation and revenue entries. As per the plaintiff-petitioners, the evidence qua the same has already been led. It is trite that an additional issue can be framed at any point of time, however, in the present case firstly, both the parties were fully aware about the controversy involved in the suit and have led evidence to prove their respective pleas. Issue nos.1 and 2 are broad enough to cover the entire controversy in issue.

In view of the above, I do not find any illegality or infirmity in the impugned order passed by the Trial Court. The present petition is accordingly dismissed. Pending applications, if any, also stand disposed off.

25.05.2022
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(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking Whether reportable: YES/NO
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