

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 2749 of 2019 (O&M)

Date of Decision: 17.05.2022

Mukhtiar Singh alias Piara Singh

... Petitioner(s)

Versus

Gagandeep Singh

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Hem Raj Bhardwaj, Advocate
for the petitioner(s).

Mr. Ashish Bansal, Advocate
for the respondent.

Anil Kshetarpal, J.

1. While assailing the correctness of an interlocutory order dated 12.02.2019, passed by the trial Court, the defendant, in a suit for recovery of ₹5,07,000/-, has filed the present revision petition.

2. The alleged suit for grant of decree for recovery has been filed on the basis of a pronote. The defendant has filed a detailed written statement asserting that the aforesaid pronote is a result of fraud. The trial Court framed the issues on 12.09.2017 and the plaintiff has already concluded his evidence. At that stage, the defendant filed an application for permission to amend the plaint in order to assert the elaborate facts. The petitioner wants to assert that the plaintiff's wife, namely Charanjit Kaur, intended to sell 8 kanals and 8½ marlas of land to the defendant for a total sum of ₹12,64,000/-. The defendant paid a sum of ₹9,50,000/-. He was short

of funds of ₹3,14,000/-, therefore, the plaintiff executed a pronote and a

receipt, although the defendant has already paid the amount.

3. Order VI Rule 2 CPC provides that the pleadings are required to be confined to the material facts and that also in a precise manner. The evidence is not required to be pleaded. The petitioner, in his written statement, has already taken a plea of fraud. In such circumstances, the petitioner can lead sufficient evidence in order to prove his case. Furthermore, as per the proviso to Order VI Rule 17 CPC, the permission to amend the pleadings, after the commencement of trial, cannot ordinarily be allowed, unless the case is covered particularly by the proviso. The trial Court has examined the matter and found that the petitioner has failed to make out his case.

4. Keeping in view of the aforesaid facts, the present revision petition is disposed of by observing that the petitioner shall be permitted to lead evidence to prove the plea of fraud.

5. The miscellaneous application(s) pending, if any, shall also stand disposed of.

(Anil Kshetarpal)
Judge

May 17, 2022
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No