

**In the High Court of Punjab and Haryana, at Chandigarh**

**Civil Revision No. 1674 of 2021**

**Date of Decision: 09.05.2022**

Amritpal Singh

... Petitioner(s)

Versus

Jaswinder Singh and Others

... Respondent(s)

**CORAM: Hon'ble Mr. Justice Anil Kshetarpal.**

Present: Mr. Shivender Pal Singh, Advocate  
for Mr. Brijeshwar Singh Bhalla, Advocate  
for the petitioner(s).

Mr. L.S.Sidhu, Advocate  
for the respondents.

**Anil Kshetarpal, J.**

1. While assailing the correctness of the order passed by the trial Court, while dismissing his application for permission to lead additional evidence, the petitioner has filed the present revision petition.

2. The petitioner's suit for possession by way of specific performance of the agreement to sell is pending before the trial Court. It is the case of the petitioner that the defendant No.1 to 4, being the owners of the suit property, agreed to sell it in favour of the defendant No.5 vide an agreement to sell dated 31.10.2011. The defendant No.5, thereafter, entered into an agreement in favour of the plaintiff. The agreement dated 31.10.2011 was produced in evidence. In fact, the plaintiff was permitted to lead secondary evidence as per the order dated 21.02.2019. Now, the petitioner

wishes to examine two marginal witnesses as well as the stamp vendor of the

agreement to sell dated 31.10.2011. The defendant No.1 to 4 have denied the execution of the agreement to sell dated 31.10.2011. The defendant No.5 has not chosen to contest the suit.

3. The trial Court has dismissed the application on the ground that the plaintiff cannot be allowed to fill up the lacuna by leading additional evidence, particularly when the agreement to sell dated 31.10.2011 was in his knowledge.

4. Heard the learned counsel representing the parties and with their able assistance, perused the paper-book.

5. The learned counsel representing the petitioner contends that the agreement to sell is already a part of the record and the plaintiff wants to prove the same by examining the witnesses of the agreement to sell as well as the stamp vendor. He submits that the aforesaid evidence shall be necessary for proper adjudication of the case. Per contra, the learned counsel representing the respondents has submitted that the aforesaid evidence was in the knowledge of the petitioner, but despite being granted several opportunities, he did not lead any evidence.

6. It is the case of the plaintiff that at the time of arguments, he came to know of the fact that the agreement to sell dated 31.10.2011 has not been proved. Hence, he filed an application, immediately.

7. Though, Order XVIII Rule 17A CPC has been deleted, however, the Court retains its inherent powers to do substantive justice. The rules of procedure are to help the Court in delivery of justice. In every case, the Presiding Judge is in the quest to find out truth. Such truth can only be unearthed if the parties are permitted to lead proper evidence. This is a

situation where the entire case of the plaintiff is based upon the agreement to sell dated 31.10.2011, alleged to be executed by the defendant No.1 to 4 in favour of the defendant No.5. The defendant No.5 has chosen not to contest the suit. In these circumstances, the entire burden is on the plaintiff to prove the same. The trial Court has erred while observing that the plaintiff cannot be permitted to fill up the lacuna by leading additional evidence. In fact, the additional evidence is to make good the deficiency, if any, in the evidence, which has already been led. Moreover, the plaintiff has already produced a written contract executed between the defendant No.1 to 4, on the one side and the defendant No.5, on the other side. He only wishes to examine the witnesses to the said agreement to sell and the stamp vendor to corroborate the evidence already produced.

8. Keeping in view the aforesaid facts, the revision petition is allowed. The trial Court is directed to permit the plaintiff to prove the agreement to sell dated 31.10.2011 by leading additional evidence.

9. The trial Court is directed to make sincere endeavour for expeditious disposal of the suit.

**(Anil Kshetarpal)**  
**Judge**

**May 09, 2022**  
**“DK”**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No