

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

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CR No. 3634 of 2022 (O& M)
Date of decision : 5.9.2022

Suman**.....Petitioner****Vs.****Sumer Singh and others****.....Respondents****CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA****Present:** Mr. Vivek Goel, Advocate, for the petitioner

Mr. U.K. Agnihotri, Advocate, for respondents No.1 and 2

TRIBHUVAN DAHIYA, J. (Oral)

1. This revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 26.7.2022 (Annexure P-5) passed by the trial Court, whereby application filed by the petitioner/defendant No.3 under Order 6 Rule 17 CPC for amendment of written statement, has been declined.

2. The brief facts of the case are, respondent No.1/plaintiff filed a suit for possession by way of specific performance of agreement against the petitioner and respondents No.2 and 3. Written statement in the case was filed, and issues were framed by the trial Court on 1.10.2018. Evidence of respondent No.1/plaintiff was recorded and concluded on 23.4.2019. Thereafter, evidence of petitioner/respondent No.3 was also led. The application in question dated 13.8.2019 (Annexure P-3) was filed for amendment of the written statement which was dismissed by the trial Court by detailed order dated 26.7.2022..

3. It has been argued by learned counsel for the petitioner that the impugned order passed by the trial Court is wrong as by way of amendment to the written statement, he needed to plea the specifics of the fraud alleged to have been committed on account of collusion between the plaintiff and defendants No.1 and 2.

4. The argument of learned counsel is not sustainable, as the same has been rejected by the trial Court by giving sound reasoning in paras No.10 and 11 of the impugned order, which read as under,

10. Further, defendant No.3 has sought amendment in preliminary objection No.6 “that the suit is collusive between the plaintiff and the defendants No.1 and 2 and the plaintiff has not come with clean hands and thus the plaintiff does not deserve for any relief”. In this regard, it is worth mentioning that defendant No.3 has taken a “plea of fraud” in his written statement and therefore, the amendment as sought by the defendant No.3 even if allowed is not going to serve any purpose in just and proper adjudication of the present suit.

11. Further, defendant No.3 has sought to insert following lines in para No.3 of reply parawise that “It is denied that the defendant No.1 had, executed an agreement to sell on 21.1.2015 and received a sum of Rs.10 lacs as alleged. The agreement to sell allegedly dated 2.1.2015 would have been procured by the plaintiff some time after July 2015 and the same is an ante dated and fabricated document. Moreover, the defendant No.3 is a transferee for consideration and without notice of alleged agreement to sell”. In this regard, it is worth mentioning that para No.3 of reply para wise defendant No.3 has categorically mentioned that the detailed reply as given in preliminary objection in para No.3 be read as part and parcel of rely of para No.3. It is worth mentioning that in para No.3 of preliminary objections at page No.4, defendant No.3 has specifically taken a plea that “.....This agreement is totally false and fabricated and has been prepared by the plaintiff in collusion with defendant No.1. The stamp papers were purchased from Faridabad and executed in Faridabad, which proves that the agreement dated 21.1.2015 is suspicious and forged document and this document is prepared only

to cheat the defendants No.2 and 3 and the said alleged agreement was never executed on 21.1.2015 and stamp papers were got purchased in back date”. So, as such the plea which is sought to be inserted by way of amendment has already been taken by defendant no.3/applicant in his written statement and in such circumstances amendment as sought by defendant No.3 is not warranted.

5. No other issue has been raised.
6. The well reasoned order passed by the trial Court calls for no interference.
7. Dismissed.

(TRIBHUVAN DAHIYA)
JUDGE

5.9.2022
Ashwani

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No