

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

202

CR No.6116 of 2016

Reserved on : 20.01.2023

Date of Decision: 03.02.2023

Ram Pal

....Petitioner

VERSUS

Surjit Singh and Another

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Dinesh Singh Rawat, Advocate for the petitioner.

Mr. Amarjot Singh, Advocate for the respondents.

ALKA SARIN, J.

The present revision petition under Article 227 of the Constitution of India has been filed challenging the order dated 07.09.2016 passed by the lower Appellate Court whereby the application filed by the plaintiff-petitioner for amendment of the plaint was dismissed.

The brief facts relevant to the present *lis* are that the plaintiff-petitioner filed a suit for specific performance in respect of a house. The said suit qua possession was dismissed by the Trial Court vide judgment and decree dated 26.08.2014 though it was decreed qua the alternate relief of refund of earnest money. The plaintiff-petitioner preferred an appeal and during the pendency of the appeal filed an application for amendment of the plaint. The plaintiff-petitioner by way of the amendment sought to insert a sentence *inter-alia* in para 2, head-note and prayer clause of the plaint so as to give a description of the suit property. In para 2 of the plaint the following sentence was sought to be inserted :

*“The said house is bearing No.84 situated in Village
Lahora, U.T. Chandigarh.”*

The said amendment application was contested by the defendant-respondents and eventually came to be dismissed vide the impugned order dated 07.09.2016. Hence, the present revision petition.

Learned counsel for the plaintiff-petitioner would contend that the Trial Court had dismissed the suit for possession by way of specific performance mainly on the ground that the suit property had not been sufficiently described in the plaint, however, the alternate relief of refund of earnest money was granted and hence, it was necessary now to file the present application for amendment of the plaint to incorporate the description of the suit property as House No.84 situated in Village Lahora, U.T. Chandigarh.

Per contra, learned counsel for the defendant-respondents submitted that by way of the amendment the plaintiff-petitioner is seeking to fill-up the gaps in his case and that too after the Trial Court had decided against him and which cannot be permitted.

I have heard learned counsel for the parties.

The lower Appellate Court has noticed in the impugned order that the agreement to sell itself did not describe the property as bearing House No.84, Village Lahora, U.T. Chandigarh. Once the agreement itself did not bear the said number it was not understandable as to how the house number can now be introduced. A perusal of the amendment application reveals that the same is totally bereft of any reasoning as to why the number of the house could not be incorporated at an earlier stage. It is also totally silent as to why if the house, for which the suit was filed, bears a number, the same was not incorporated in the plaint while describing the suit property. The Trial Court in its judgment dated 26.08.2014 held *inter-alia*

that “*Bare perusal of agreement to sell Ex.PW1/XY shows that there is no*

description of property in this agreement to sell. No house number is mentioned in the agreement to sell. There is no site plan attached to the agreement to sell. The site plan attached with the present plaint Mark D/2 is neither signed by the draftsman. The site plan is silent as to direction and dimensions. Perusal of both the agreement to sell and site plan shows that there is no dimension or direction shown in the site plan”.

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

It is made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

03.02.2023
jk

(ALKA SARIN)
JUDGE

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