

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

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2023:PHHC:133669

**CR-1146-2023 (O&M)
Date of decision: 13.10.2023**

ROZY SACHDEVA

..Petitioner

Versus

**PARKASH KAUR (DECEASED) THROUGH LRS
AND ORS**

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Robin Dutt, Advocate
for the petitioner.

Mr. Ranjivan Singh, Advocate
Ms. Kanika Toor, Advocate
& Mr. Risham Raag Singh, Advocate
for respondents.

ANIL KSHETARPAL, J(Oral)

1. The petitioner before this Court filed a suit before the Court of first instance for possession by way of specific performance of the agreement to sell with respect to the plot measuring 166.67 square yard. In the suit, it was claimed that the plaintiff has entered into an agreement to sell with defendant No.1 with respect to the plot measuring 315.6 square yard. The suit was filed on 08.01.2015. During the pendency of the suit, defendant filed an application that she is prepared to honor the agreement to sell with respect to 315.6 square yard, however, the parties could not arrive at a consensus. Thus, the trial of the suit continued. In the year 2021, the plaintiff filed an application for permission to amend the plaint in order to seek specific performance of the entire plot i.e. plot measuring 315.6 square yard, which was dismissed by the trial Court.

2. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

3. The learned counsel representing the petitioner has vehemently contended that there was some defect in the title of defendant No.1 and the same was cured during the pendency of the suit, hence, the application was filed for amendment of the plaint, which should have been allowed.
4. On the other hand, the learned counsel representing the respondents submits that the plaintiff cannot claim specific performance of the agreement to sell regarding entire plot after having abandoned his right to seek specific performance of selling the plot. He submits that if the application is allowed, it would result in entertaining a time barred claim as the agreement to sell was entered into in the year 2014, whereas, the application for amendment of plaint was filed in the year 2021.
5. This Court has considered the submissions of the learned counsel representing the parties.
6. It is evident that while filing the suit, the plaintiff made a conscious choice of restricting her claim to plot measuring 166.67 square yards. In these circumstances, now she cannot take a U-turn to claim specific performance of 315.6 square yard after having specifically abandoned the same. Moreover, the trial of the suit has commenced.
7. Keeping in view the aforesaid facts, no ground to interfere is made out.
8. Dismissed accordingly.
9. All the pending miscellaneous applications, if any, are also disposed of.

October 13th, 2023

(ANIL KSHETARPAL)
JUDGE

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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No