

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

117

2023:PHHC:100590

1. CR-3049-2019

Date of decision: 04.08.2023

KARAM SINGH

..Petitioner

Versus

HARBANS SINGH

..Respondent

2. CR-3050-2019

KARAM SINGH

..Petitioner

Versus

HARBANS SINGH

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Pankaj Bali, Advocate
for the petitioner.

Mr. Ashok Gupta, Advocate
for respondent.

ANIL KSHETARPAL, J(Oral)

1. In these two revision petitions, a common order passed by the trial Court while dismissing two separate applications filed by the plaintiff have been dismissed. Through the first application, the plaintiff prayed for impleading Sh. Gulzar Singh son of Sh. Nikka Singh son of Sh. Bala Singh as defendant, whereas, in the other application, he prayed for permission to amend the plaint so as to incorporate the relief of specific performance of the agreement to sell.

2. The trial Court as already noticed dismissed both the applications. Through these two revision petitions, the correctness of the aforesaid order has been challenged.

3. The learned counsel representing the petitioner contends that the property is owned by Sh. Gulzar Singh, who had entered into an

agreement to sell with Sh. Harbans Singh (defendant No.1). Subsequently, Sh. Harbans Singh entered into an agreement with the plaintiff Sh. Karam Singh in which Sh. Gulzar Singh signed as a witness. He submits that the trial Court should have allowed both the applications.

- 4. This Court has considered the submissions.
- 5. The alleged agreement between Sh. Harbans Singh and Sh. Karam Singh was executed on 28.03.2011. In the year 2014, Sh. Karam Singh chose to file a suit for the refund of the amount along with the interest.
- 6. Keeping in view the aforesaid facts, the first question that would require adjudication is ‘whether the plaintiff can be permitted to amend the plaint to incorporate the relief of the specific performance of the agreement to sell or not?’
- 7. The application for permission to amend the plaint was filed on 02.04.2018. Obviously, it was filed beyond the prescribed limitation period. Moreover, when the plaintiff filed a suit for recovery while abandoning right to seek specific performance of the agreement to sell, now, at this stage, after a period of 4 years, it will not be appropriate to allow the plaintiff to amend the plaint. Thus, the trial Court has correctly dismissed the application.
- 8. Admittedly, Sh. Gulzar Singh has signed the agreement as a marginal witness. A suit for recovery against the witness is not maintainable.
- 9. Hence, no ground to interfere, is made out.
- 10. Both the revision petitions are dismissed, accordingly.
- 11. All the pending miscellaneous applications, if any, are also disposed of.

August 04th, 2023

(ANIL KSHETARPAL)
JUDGE

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Whether speaking/reasoned

: Yes/No

Whether reportable

: Yes/No