

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.137

Case No. : C.R. No.4655 of 2023

Date of Decision : August 18, 2023

Ravinder Singh

.... Petitioner

vs.

Gurbakhsish Singh @ Bakhsish Singh
and another

.... Respondents

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. Aman Deep Saini, Advocate
for the petitioner.

* * *

GURBIR SINGH, J. :

1. Challenge in this revision petition is to the order dated 31.01.2023 (Annexure P-3), passed by learned Civil Judge (Junior Division), Kharar (for brevity – Trial Court), whereby application filed by the defendant-petitioner under Order 6 Rule 17 CPC for amendment of written statement, has been declined.

2. Petitioner and proforma respondent no.2 herein are defendants no.1 and 2 respectively before the learned Trial Court. Respondent no.1 is the plaintiff there. The parties are being addressed to as in the original suit before the learned Trial Court.

3. The facts, as culled out from the paper book, are that the plaintiff filed a suit for possession of land by way of specific performance of agreement dated 11.05.2017. The defendant no.1 filed written statement stating therein that he had never executed the alleged agreement to sell dated

01.01.2016 and the same is forged and fabricated document as it was prepared by the plaintiff in active connivance with the witnesses. The defendant no.1 never signed any agreement to sell nor any earnest money was received by him, as alleged by the plaintiff.

4. Learned counsel for defendant no.1 has argued that defendant no.1 wants to incorporate in the written statement that he had taken loan of Rs.4,00,000/- from the plaintiff, who is a Commission Agent and the plaintiff took his signatures on the blank papers by way of security. Defendant no.1 has already paid Rs.2,50,000/- in cash in presence of the witnesses but plaintiff had misused the blank papers and had forged the agreement to sell. It was submitted that the proposed amendment is not going to change the nature of the case. Therefore, the same be allowed.

5. I have heard the submissions of learned counsel for defendant no.1 and have also gone through the case file.

6. Perusal of case file shows that the plaintiff has already been examined. The plaintiff also examined one witness and then closed his evidence. The defendant no.1 filed written statement. Para no.1 of the said written statement, on merits, reads as under :-

"1. That this para of the written statement is wrong hence denied. That the defendant has never executed any alleged agreement to sell with plaintiff on 1-1-2016. The alleged agreement to sell is forged and fabricated document prepared by the plaintiff with the active connivance of witnesses. The defendant never signed any agreement to sell nor any earnest money was received by defendant as alleged by the plaintiff in

this para.”

7. The specific plea of defendant no.1 is that he never signed any agreement to sell. By amendment, he wants to take plea that his signatures were taken on blank papers by way of security since he had taken loan of Rs.4,00,000/- from the plaintiff and had already paid an amount of Rs.2,50,000/-. The plea taken by defendant no.1 is totally in contrast to earlier pleadings that he did not sign the agreement to sell in question. The plaintiff has already led the evidence, so, at this stage, if amendment of the written statement is allowed, then it will start a *de novo* trial. Although law of amendment is liberal but a party cannot be allowed to take contradictory plea by way of amendment.

8. In view of the above discussion, it is held that the learned Trial Court has rightly held that there is no ground to allow the amendment of written statement and I do not differ with the same. Accordingly, the present revision petition is dismissed.

9. Pending applications, if any, shall stand disposed of along with this judgment.

August 18, 2023
monika

(GURBIR SINGH)
JUDGE

<i>Whether speaking/reasoned ?</i>	<i>Yes/No.</i>
<i>Whether reportable ?</i>	<i>Yes/No.</i>