

2024:PHHC:014447

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

CR-527-2020 (O&M)

Date of decision: 01.02.2024

Balbir

....Petitioner

Versus

Naveen and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Ms. Neha Sonawane, Advocate for the petitioner
Mr. Ajay Ghanghas, Advocate for respondent no.1

ANIL KSHETARPAL, J (Oral)

1. This revision petition has been filed by defendant no.1 to challenge the correctness of the order passed by the trial court on 22.10.2019, while dismissing the application under Order XIV Rule 1 of the Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC') for framing of the additional issues and allowing application under Order XIV Rule 5 CPC.

2. The plaintiff has filed a suit for grant of decree of possession by way of the specific performance of the agreement to sell, with a consequential relief of permanent injunction. He has also sought declaration that the lease deed dated 27.07.2005 is null and void.

3. After the parties filed their respective pleadings on 21.11.2015, the following issues were framed by the trial court:-

"1. Whether the plaintiff is entitled to a decree for possession by way of specific performance of agreement dated 22.2.2013, as prayed for? OPP.

2. Whether the plaintiff is entitled for perpetual prohibitory injunction, as prayed for? OPP.

3. Whether the suit filed by the plaintiff is not maintainable in the present form? OPD.

4. *Whether the plaintiff has no cause of action and locus-standi to file the present suit? OPD.*

6. *Whether the suit of the plaintiff is not property valued?OPD.*

7. *Whether the answering defendants is entitled to get the special cost u/s 35-A CPC from the plaintiff? OPD.”*

4. Thereafter, on an application filed, the court framed the following additional issues on 01.05.2019:-

“1(a) Whether defendant No.1 took a loan of Rs.24,00,000/- from the plaintiff and the alleged agreement to sell was executed in the shape of surety for the repayment of loan of the plaintiff? OPD.

1(b) Which was borrowed by defendant No.1 for raising construction in the school of defendant No.2? OPD.”

5. Thereafter, two applications were filed; one by the plaintiff and second by the defendant. The court has dismissed the application filed under Order XIV Rule 1 CPC whereas allowed the application under Order XIV Rule 5 CPC. Learned counsel representing the petitioner contends that in accordance with the Order XIV Rule 1 CPC a distinct and separate issue is required to be framed by the court on each material proposition of fact or law, which is controverted by the other side. She submits that the court has not framed proper issues.

6. This Court has considered the submissions made by the learned counsel representing the parties.

7. Both the parties are litigating for the last 9 years. They are represented by their respective counsels. They are aware of the points involved in the suit and evidence, which are required to be led. On two

different occasions, the court has already framed issues. This Court has been informed that the case is now fixed for final arguments.

8. Keeping in view the aforesaid facts, no ground to interfere is made out.

9. Hence, dismissed.

10. All the pending miscellaneous applications, if any, are also disposed of.

01.02.2024

rekha

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No