

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

123

CR-771-2024 (O&M)

Date of decision:13.03.2024

Gurmeet Kaur

... Petitioner

Vs.

Balwinder Singh

... Respondent

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR.

Present: Mr. N.S. Dadwal, Advocate for the petitioner.

...

SUKHVINDER KAUR, J.

1. The instant revision petition has been filed by the petitioner/defendant against the order dated 15.01.2024 (Annexure P-1) passed by the Civil Judge (Jr. Division), Jagraon, whereby an application filed by the petitioner under order 14 Rule 5 CPC for framing of additional issues in the civil suit has been ordered to be dismissed.

2. Relevant facts material for disposal of the present revision petition are that the plaintiff/respondent filed a suit for separate possession by way of partition of the suit property as detailed in the head note of the plaint to the extent of ½ share each of the plaintiff and defendant. The relief of permanent injunction was also sought for restraining the defendant from changing the nature of the property by way of raising construction or any other manner and also from alienating the same by way of sale, exchange or otherwise by mentioning specific sides except in due course of law.

3. On receipt of notice, the petitioner/defendant appeared and filed written statement.

4. Thereafter issues were framed as per pleadings of the parties and parties led their respective evidence and the case was fixed for hearing of the arguments. Then the petitioner filed an application under Order 14 Rule 5 CPC for framing of additional issues which was dismissed vide the impugned order dated 15.01.2024 by the trial Court. Hence, the revision petitioner/defendant has knocked the doors of this Court by way of filing of the present revision petition.

5. Learned counsel for the petitioner has contended that after death of Pargat Singh, who was husband of the petitioner and owner of the land measuring 3.½ biswas, wherein he had constructed the house, the above said land has been inherited by the petitioner as well Gurdev Kaur mother of Pargat Singh in equal shares. The petitioner is in actual physical possession of the said property whereas Gurdev Kaur mother-in-law of the petitioner sold her share i.e. 6 marlas to Narpinder Singh and Charanjit Kaur vide registered sale deed 14.02.2011 in equal shares, who further sold the said land to the respondent vide sale deed dated 15.09.2015. He has further contended that though in the earlier sale deed, a vacant plot had been shown to be sold to Narpinder Singh and Charanjit Kaur but in the later sale deed with a view to grab the residential house of the petitioner, a residential house was got written. He has argued that the real controversy between the parties is “whether the plaintiff has any share in the constructed house or not?”. But no issue in this regard has been frame, though, the same arises from the pleadings of the parties. He has submitted

that the evidence has already been led by the parties and no further evidence is required to be led on the proposed additional issue to effectively adjudicate the controversy in the present case.

6. I have heard learned counsel for the petitioner at length and have perused the pleadings on record.

7. The present suit has been filed by the plaintiff for separate possession and permanent injunction on the ground that property in dispute was joint between the plaintiff and the defendant. The trial Court has already framed issue No.1 to the effect that “Whether plaintiff is entitled for separate possession?” The proposed additional issue is very much covered under the aforesaid issue No.1 that has already been framed by the trial Court. Otherwise also, the evidence in the present case has already been concluded and obviously the parties were well aware about the controversy involved in the present case and have led the evidence accordingly.

8. In the light of the above, the impugned order is well reasoned order and does not suffer from any illegality or perversity.

9. Being bereft of any merit, the present revision petition is dismissed.

(SUKHVINDER KAUR)
JUDGE

13.03.2024
harjeet

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |