



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Civil Revision No. 4330 of 2024 (O&M)
Date of Decision: 05.08.2024

Kuldeep Singh and another
..... Petitioners

Versus

Gurdev Kaur
..... Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Vivek Aggarwal, Advocate
for the petitioners-defendants.

HARKESH MANUJA, J. (ORAL)

The petitioners-defendants, by way of present revision petition filed under Article 227 of the Constitution of India, seeks setting aside of an order dated 05.07.2024 (Annexure P-1) passed by the learned Additional Civil Judge (Senior Division), Nabha (**hereinafter to be called as “trial Court”**), whereby their application for framing additional issues stands declined.

[2] In the present case, the respondent-plaintiff (Gurdev Kaur) filed a suit for declaration as well as mandatory injunction against the petitioners-defendants, holding her to be entitled to receive and withdraw the sum of Rs. 86,00,000/- (Eighty-six lakhs only) lying deposited with the Punjab National Bank, Branch, Patiala.

[3] The case set up in the plaint was that the aforesaid amount of Rs. 86,00,000/- (Eighty-six lakhs only), which was recovered from the petitioners-defendants by the Investigating Agency, was in fact related to

sale consideration against the alienation of land owned by the respondent-plaintiff and her son and thus, she was entitled for release of the same with issuance of appropriate directions to the concerned Bank.

[4] The pleadings in the suit were denied and disputed at the hands of petitioners-defendants, followed by framing of the following issues by the trial Court vide order dated 01.03.2020:-

- “1. *Whether the plaintiff is entitled to the relief of declaration as prayed for? OPP*
2. *Whether the plaintiff is entitled to the relief of mandatory injunction as prayed for? OPP*
3. *Whether the suit of the plaintiff bank is neither maintainable nor competent in its present for? OPD*
4. *Whether the suit of plaintiff has got no locus standi or cause of action to file the present suit? OPD*
5. *Relief. ”*

[5] Upon conclusion of the evidence of respondent-plaintiff while the evidence of petitioners-defendants was in progress, an application came to be moved at their (petitioners) instance seeking framing of the following additional issues:-

- “ (i) *Whether the sale proceeds of the lands of the plaintiff and her son remained with defendants? OPP*
- (ii) *Whether the amount recovered from the defendant No. 1 belonged to the plaintiff? OPP ”*

[6] The aforesaid application was opposed at the instance of respondent-plaintiff. The trial Court vide order dated 05.07.2024 dismissed the said application, while declining to frame the aforesaid additional issues. Hence, the present revision petition.

[7] Learned counsel for the petitioner submits that once, there was a specific plea raised in the plaint at the instance of respondent-plaintiff that the petitioners were possessing the amount of Rs. 86,00,000/- (Eighty-six lakhs only) against the sale proceeds of land belonging to the respondent-plaintiff as well as her son and thus, she was entitled for release of the same, in such circumstances, unless the additional issues, as prayed for by the petitioners, were not framed by the trial Court, no relief of mandatory injunction could be issued in favour of respondent-plaintiff.

[8] After hearing learned counsel for the petitioners and having gone through the paper-book, I am unable to find substance in the submissions made on behalf of the petitioners-defendants.

[9] In the humble opinion of this Court, the fact as to whether the amount recovered from the petitioners-defendants belonged to the respondent-plaintiff and her son against the sale proceeds of their land would definitely be adjudicated upon in the process of finding the entitlement of respondent-plaintiff as regards issuance of decree for mandatory injunction in her favour and thus, facts to be determined under the additional issues, now sought to be framed at this stage, are essentially subsumed in issue No.2, i.e. *“whether the plaintiff is entitled to the relief of mandatory injunction as prayed for? OPP”*. In such circumstances, at the fag end of trial, no additional issues, as prayed for, are required to be framed. Even in the absence of any such additional issue, the trial Court would be able to decide the suit in a complete and effective manner, whereas, on the contrary, framing of any such issue would only delay the disposal of the suit.

[10] Consequently, finding no illegality or perversity in the impugned order dated 05.07.2024 (Annexure P-1) passed by the trial Court, the present revision petition, being devoid of merits, is hereby **dismissed**.

August 05, 2024
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(HARKESH MANUJA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No