



202

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

CR-978-2023

Date of decision: 27.10.2025

Sayeed Mohammad Muslim

...Petitioner

Versus

Surinder Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Rakesh Chopra, Advocate for the petitioner.

Mr. S.S. Tiwana, Advocate
for respondent Nos.2, 3(i), (ii), (iii), 4 and 5.

VIKAS BAHL, J. (ORAL)

1. This is a revision petition filed under Article 227 of the Constitution of India for setting aside the order dated 29.11.2022 (Annexure P-1) whereby the application dated 19.09.2022 (Annexure P-2) of the respondents for directing the petitioner to pay ad valorem Court fee upon application under Order 41 Rule 33 CPC treating the same as cross-objection was allowed by the First Appellate Court. Challenge is also to the order dated 29.11.2022 (Annexure P-4) vide which application dated 17.10.2022 (Annexure P-3) filed by the petitioner to render the application (Annexure P-2) as infructuous as the petitioner only wanted to challenge the finding on issue No.1 regarding readiness and



willingness, has been declined.

2. Learned counsel for the petitioner has submitted that in the present case, the petitioner had filed a suit for specific performance and it is in the said suit, only alternative relief with respect to recovery of money was granted by the trial Court and no relief of specific performance was granted. It is further submitted that the issue with respect to readiness and willingness was however decided against the petitioner. It is stated that the respondents/defendants have filed an appeal against the said judgment and decree challenging the part of the judgment and decree vide which the alternative relief of recovery was awarded and the petitioner filed an application under Order 41 Rule 33 CPC which was ultimately considered under Order 41 Rule 22 CPC by the First Appellate Court as cross objection. It is submitted that in the said proceedings, the respondents had moved an application for directing the petitioner to deposit the Court fee which was allowed vide order dated 29.11.2022. It is submitted that the petitioner had additionally filed an application dated 17.10.2022 saying that he would challenge only the finding on issue No.1 with respect to readiness and willingness in appeal filed by the respondents and would not seek any other prayer, however the same had been dismissed vide impugned order (Annexure P-4). It is submitted that the petitioner undertakes that he would not claim any further relief than the relief which had been granted by the trial Court i.e., grant of alternative relief of recovery and would not press for specific performance but only seeks to challenge the finding on the issue with



respect to readiness and willingness, so as to support the judgment of the trial Court. It is submitted that it is always open to the party to raise arguments to support the judgment of the trial Court and no Court fee is required to be paid in case no further relief is being sought by the petitioner.

3. Learned counsel for the respondents has submitted that in case the petitioner withdraws the application initially filed under Order 41 Rule 33 CPC and subsequently treated as application under Order 41 Rule 22 CPC and makes a statement that he would not press his prayer for specific performance before the First Appellate Court or thereafter and only wishes to argue on the finding with respect to readiness and willingness so as to support the judgment of the trial Court, then, the petitioner be exempted from payment of Court fee.

4. During the course of arguments, a consensus has been arrived at between learned counsel for the petitioner as well as learned counsel for the respondents and in view of the same, the present revision petition is disposed of while setting aside the orders (Annexure P-1) and (Annexure P-4) with the following observations/directions:-

- i) The petitioner would not be permitted to raise any arguments seeking specific performance of agreement to sell before the First Appellate Court and would restrict his arguments only to support the judgment of the trial Court with respect to alternative relief. As agreed, it would be open to the petitioner to raise arguments to show that the finding with respect to readiness and willingness



(issue No.1) is not in accordance with law. It would be open to the respondents to raise all the pleas to oppose the said pleas on merits and to show that finding on readiness and willingness of the trial Court is in accordance with law.

- ii) The First Appellate Court would not insist on the petitioner paying the Court fee as the petitioner has undertaken not to raise any arguments seeking any relief of specific performance or further relief than what has been granted by the trial Court.
- iii) It is made clear that this Court has not opined on the merits of the case and it would be open to both the parties to raise all the pleas on the abovesaid aspect including the aspect of readiness and willingness on merits.
- iv) The application under Order 41 Rule 33 CPC which had been converted into application under Order 41 Rule 22 CPC stands withdrawn as prayed by the petitioner.

27.10.2025

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No