



202 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-7642-2017 (O&M)

Date of decision : 29.01.2025

Satwant Singh

...Petitioner

Vs.

Makhan Singh and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sandeep Jain, Advocate
Mr. Sachin Jain, Advocate
for the petitioner.

Mr. Ramandeep Singh, Advocate
for the respondents.

ANIL KSHETARPAL, J. (Oral)

1. The petitioner herein has filed suit for specific performance of the agreement to sell, which is pending. During the pendency of the suit, plaintiff filed an application for making good the deficiency in affixing the stamp, which has been dismissed by the trial Court on the ground that the agreement to sell required registration, hence, not admissible in evidence. A Division Bench of this Court in '*Ram Kishan and another vs. Bijender Mann @ Vijender Mann and others*' 2013(2) RCR (Civil) 419 has held that in a suit for specific performance of agreement to sell, the agreement evidencing delivery of possession is admissible in evidence and it is not required to be registered.
2. Learned counsel representing the respondents does not dispute the aforesaid position.

3. In view of the aforesaid fact, the impugned order dated 29.09.2017



passed by the trial Court is set aside. The petitioner shall be permitted to make good the deficiency of stamp duty alongwith penalty of equivalent amount. It is not necessary to impose penalty equivalent to 10 times of deficiency in stamp duty payable in view of judgment passed by the Supreme Court in '*Trustees of H.C. Danda Trust vs. State of Madhya Pradesh and others*' 2020 AIR (SC) 4349. In fact, the amendment brought in by the State of Punjab in the Indian Stamp Act, 1899, has not percolated down to the masses. In any case, the stage of payment of stamp duty has been advanced because ultimately at the time of execution of the sale deed, the complete stamp duty in any case is payable. The stamp duty payable at the stage of agreement to sell is required to be adjusted at the time of final sale deed. Reliance in this regard can be placed on a judgment passed by this Court in '*M/s Saini Motors and others vs M/s L.R Builders Pvt. Ltd.*', CR-3291-2016, decided on 26.09.2023.

- 4. Hence, the revision petition is allowed.
- 5. All the pending miscellaneous applications, if any, are also disposed of.

29.01.2025
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No