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

CR-865-2025 (O&M)
Date of decision: 11.02.2025

Prem Kumar and another

...Petitioners

Versus

Poonam Walia and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Ms. Monika Tanwar, Advocate for the petitioners.
(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

1. This is a revision petition filed under Article 227 of the Constitution of India for setting aside the impugned order dated 10.12.2024 passed by the Civil Judge (Junior Division), Amritsar (Annexure P-8) vide which the Civil Judge (Junior Division), Amritsar had dismissed the application filed by the petitioners under Order 14 Rule 5 of CPC for framing of the additional issues.

2. Learned counsel for the petitioners has submitted that in the present case, the additional issue, which is reproduced as under, is also required to be framed on the basis of the pleadings of the parties:-

“PROPOSED ISSUE:-

1. Whether the defendants no.1 and 2 purchased the suit property under valuable consideration. OPD?”



3. It is submitted that for the said purpose, the petitioners-defendants had moved an application (Annexure P-7) which had been dismissed by the trial Court vide order dated 10.12.2024 and the said order is illegal and deserves to be set aside and the additional issue as proposed by the petitioners-defendants is required to be framed.

4. This Court has heard learned counsel for the petitioners and has perused the paper book and finds that the impugned order is in accordance with law and deserves to be upheld and the present revision petition is meritless and deserves to be dismissed for the reasons stated hereinafter.

5. In the present case, the plaintiffs-respondent Nos.1 and 2 have filed a suit for declaration to the effect that the plaintiffs were the owners in possession of the property in question and that the sale deed dated 07.10.2014 executed in favour of defendant Nos.1 and 2 was illegal, null and void, on account of fraud etc.. The said suit was filed in the year 2015. After the written statement was filed by the petitioners-defendants, the issues were framed on 11.02.2016 and the said issues are reproduced hereinbelow:-

“Sh. Yogesh Sharma Adv. Counsel for plaintiff

Sh. Rakesh Kashyap Adv. Counsel for the def. no. 1 & 2

Defense of Def. No. 3 struck off.

Sh. Kulwant Singh Adv. Counsel for the def. no. 5

Def no. 4 & 6 ex-parte.

Neither written statement filed nor cost paid by def. no. 3.

Perusal of the file shows that def. no. 3 has appeared in the Court dated 30/01/2015 through his counsel. Period of 90 days has already been elapsed. As such defense of the def. no. 3 is hereby struck off. From the pleadings of the parties



following issues are framed.

1) Whether the plaintiff is entitled to declaration as prayed for? OPP

2) Whether the plaintiff is entitled to permanent injunction as prayed for? OPP

3) Whether the suit is not legally maintainable? OPD

4) Whether the plaintiff hasn't come to the Court with clean hands? OPD

5) Whether the plaintiff is estopped by his own art & conduct from filing the present suit? OPD

6) Whether the plaintiff has got no locus standi to file the present suit? OPD

7) Relief.

No other issues arises nor pressed. *Now to come up on 26/02/2016 for evidence of the plaintiff. PF/DM are list of witnesses be filed within 15 days, failing which no assistance shall be provided by this Court for summoning of plaintiff witnesses.*

(Harsimarnjeet Kaur)

CJJD/ASR 11/2/2016”

6. The trial Court while dismissing the application filed by the present petitioners-defendants for framing of the additional issue had observed that under the already framed issue with respect to whether the plaintiffs were entitled to declaration or not as prayed for by them, all the aspects with respect to the sale deed would be considered and the said issue was sufficient enough to cover the entire matter in controversy. It was further observed that the petitioners, who are defendant Nos.1 and 2, would also get an opportunity to lead their evidence to prove their defence as taken in the written statement. The said observations of the trial Court are in



accordance with law, inasmuch as, for the plaintiffs to succeed in suit, the aspect as to whether the sale deed is vitiated by fraud and is accordingly, null and void qua the rights of the plaintiffs or is valid and with due consideration is required to be considered under the abovesaid issue No.1 and 2 and thus, there is no requirement to frame the additional issue as proposed by the petitioners. It would be relevant to note that the original issues were framed on 11.02.2016 in the presence of the counsel for defendant Nos.1 and 2 and at that stage, it was specifically stated that no other issue was pressed and the case was adjourned to 26.02.2016 for the evidence of the plaintiffs and the present application had been filed after much delay. The framing of the additional issue and entertaining the present revision petition would only delay the proceedings and would serve no purpose.

7. Keeping in view the abovesaid facts and circumstances, the impugned order is in accordance with law and deserves to be upheld and the present revision petition being meritless, deserves to be dismissed and is accordingly, dismissed.

8. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

11.02.2025

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No