



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

117

CR-2673-2025**Date of decision : 02.05.2025****Krishna Kishore Neravati****..... Petitioner****versus****Alka Kumar and others****..... Respondents****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Kartik Gupta, Advocate
for the petitioner.

PANKAJ JAIN, J. (Oral)

1. Challenge is to the order dated 06.09.2024 (Annexure P-6) passed by Civil Judge, (Junior Division), Gurugram whereby application filed under Section 10 of the Code of Civil Procedure, 1908 (Annexure P-5) by the petitioner stands dismissed.
2. Petitioner earlier filed suit seeking decree of possession by way of specific performance propounding an oral agreement alleged to have been executed by respondent No.1 with respect to 4th floor and basement of plot bearing No.N-129, Mayfield Garden, Sector-51, Gurugram. For convenience, the suit for specific performance filed by the petitioner hereinafter would be referred to as the earlier suit.
3. The present suit has been filed by respondent No.1, wherein the present petitioner has been arraigned as defendant No.1 seeking recovery of possession on revocation of license along with



permanent and mandatory injunction with respect to the same property. The petitioner-defendant No.1 in the subsequent suit filed application under Section 10 of CPC seeking stay of the subsequent suit citing pendency of the earlier suit at his behest and claimed that the trial of the subsequent suit would be hit by the principle of res sub-judice. Trial Court dismissed the application holding that the reliefs and the issues in the two suits being entirely of different nature. There is no bar in proceeding with the suit. Mr. Gupta has assailed the impugned order passed by the Trial Court. He submits that since subject matter of both the suits i.e. the property involved is the same, the subsequent suit filed against the petitioner deserves to be stayed. He submits that in case the petitioner is held to be owner in the earlier suit, the findings recorded in the earlier suit shall operate as res judicata in the subsequent suit.

4. I have heard counsel for the petitioner and have carefully gone through the records of the case.

5. The argument raised is misconceived. Earlier suit has been filed by the petitioner propounding an oral agreement to sell claiming that he was put in possession of the basement of the property on the basis of the said oral agreement.

6. In the present suit, the plaintiff claims that the petitioner is merely a licensee. Trite it is that agreement to sell does not confer any right, title or interest apart from right to seek decree of specific performance.

7. In the considered opinion of this Court, even if the plaintiff succeeds in the earlier suit and is held entitled to decree of



specific performance, the finding recorded therein shall not operate as res judicata in the present suit and thus, Section 10 cannot be invoked to stay the subsequent suit.

8. Finding no regularity much less illegality in the orders passed by the Trial Court, the present revision petition is dismissed.

(PANKAJ JAIN)
JUDGE

02.05.2025
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No