



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

123

CR-2793-2026

Date of decision: 30.03.2026

Hardev Singh (since deceased) through LRs

...Petitioner

Versus

Balvir Singh and another

.... Respondent

CORAM: HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL

Present: Mr. Akshay Kumar Goel, Advocate,
for the petitioner.

AMARINDER SINGH GREWAL, J. (Oral)

1. The present revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 10.11.2025 passed by the learned Additional Civil Judge (Senior Division), Nihal Singh Wala, District Moga, vide which the application filed by the petitioners/defendant Nos. 1, 3 and 4 under Order XIV Rule 5 CPC, seeking framing or recasting of issues has been dismissed.

2. The brief facts of the case are that the respondent–plaintiff, Balvir Singh, filed a suit for possession by way of specific performance of an agreement to sell dated 23.08.2018, allegedly executed by deceased Hardev Singh in his favour in respect of the suit property. The respondent–plaintiff also sought the relief of permanent injunction, restraining the defendants from selling, mortgaging, gifting, or otherwise alienating the suit property in favour of any person other than the plaintiff during the pendency of the suit. In the alternative, a decree for recovery of Rs. 10,18,000/- with 18% interest was also prayed for. Notice of the said suit

was issued to the present petitioners/defendants, who contested the same by



filing their written statement. From the pleadings of the parties, as many as six issues, including the relief clause, were framed. Thereafter, the respondent–plaintiff led his evidence till 17.03.2026, and the case was thereafter fixed for evidence of the petitioners/defendants. At that stage, an application under Order XIV Rule 5 CPC was filed by the petitioners/defendants seeking amendment and framing of additional issues. Notice of the said application was issued to the respondent–plaintiff, who contested the same by filing a reply. The learned Additional Civil Judge (Senior Division), Moga, after hearing learned counsel for the parties, dismissed the said application vide the impugned order dated 10.11.2025, holding that the issues already framed by the learned predecessor Court were comprehensive in nature and covered the entire controversy between the parties to the suit.

3. Learned counsel for the petitioners contends that the agreement to sell dated 23.08.2018 was rescinded on 03.12.2019, and a fresh agreement on new terms and conditions was executed between the parties on the same day. It is further contended that, while passing the order dated 16.05.2025 in a civil miscellaneous appeal filed by petitioners/defendants against the order dated 21.09.2021 passed by the learned Additional Civil Judge (Senior Division), Nihal Singh Wala, District Moga, the learned Additional District Judge, Moga, had been apprised of the aforesaid fact, and the same also finds mention in paragraph 10 of the said order. It is thus argued that, in view of the rescission of the agreement to sell dated 23.08.2018 and execution of a fresh agreement dated 03.12.2019, the framing of specific issue in this regard is essential for the just and proper



adjudication of the case, and the learned Additional Civil Judge (Senior Division), Nihal Singh Wala, District Moga, ought to have framed the said issue.

4. I have heard learned counsel for the petitioner and have perused the paper book with his able assistance.

5. In view of the nature of the order proposed to be passed, issuance of notice to the respondent is dispensed with, as the same would only delay the proceedings and entail unnecessary expenses.

6. After hearing the contentions raised by learned counsel for the petitioner and in view of the discussion made hereinabove, it emerges that the agreement to sell dated 23.08.2018 was allegedly rescinded on 03.12.2019 leading to a fresh agreement on new terms and conditions. Since the onus to prove the said fact lies upon the present petitioner, this Court is of the considered view that a specific issue in this regard is necessary to be framed by the learned trial Court for proper adjudication of the present case.

7. Keeping in view the above, the present revision petition is disposed of by setting aside the impugned order dated 10.11.2025 to the limited extent that the learned Additional Civil Judge (Sr. Divn.), Nihal Singh Wala, Moga, is directed to frame the issue i.e. “***Whether the agreement dated 23.08.2018 was rescinded on 03.12.2019 and a new agreement on fresh terms and conditions was executed on 03.12.2019 by the parties?***” and second additional issue should also be framed regarding the fact that “***Whether the plaintiff has got no cause of action to file the present suit for the enforcement of agreement dated 23.08.2018?***”. The onus to prove these issues will be upon the present petitioner/defendant.



8. Pending applications, if any, shall stand disposed of accordingly.

March 30, 2026
anil

(AMARINDER SINGH GREWAL)
JUDGE

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