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

CR-224-2025 (O&M)

Date of decision: 28.01.2025

Honey

...Petitioner

Versus

Ramesh Kumar Bansal

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Rajiv Joshi, Advocate for the petitioner.

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 14.11.2024 passed by the Additional Civil Judge (Senior Division), Fatehgarh Sahib (Annexure P-11) whereby an application filed under Order 14 Rule 5 CPC for framing of additional issue has been dismissed by the trial Court.

2. A perusal of the paper book would show that originally following issues were framed by the trial Court vide order dated 21.07.2023:-

“1. Further the plaintiff is entitled to relief of recovery, as prayed for? OPP

2. Whether the suit is not maintainable in the present form? OPD

3. Whether the plaintiff has not come to Court with clean hands and has suppressed true and material facts from the court? OPD

4. Whether the plaintiff has got no cause of action to file the present suit? OPD

5. Relief.”

3. Subsequently, the petitioner had moved an application under



Order 14 Rule 5 CPC for framing an additional issue to the effect “whether the plaintiff remained ready and willing to perform his part of contract continuously? OPP”. The Additional Civil Judge (Senior Division), vide impugned order had observed that the issue with regard to “ready and willing” was not necessary to be framed in the suit for recovery.

4. Learned counsel for the petitioner has submitted that the petitioner is primarily aggrieved with the said observation made in the impugned order dated 14.11.2024, inasmuch as, the original suit which was filed by the respondent-plaintiff was for specific performance and in the alternative, recovery was sought and thereafter, an amendment was made in the suit and in the amended suit, recovery of Rs.35 lacs was sought and in addition to the same, an amount of Rs.5 lacs was also sought being consolidated interest as damages, which were stated to have been suffered by the respondent-plaintiff at the instance of the present petitioner. It is submitted that even in para 4 of the said amended plaint, it was the averment of the respondent-plaintiff that the respondent-plaintiff was ready and willing to get the sale deed executed. It is further highlighted that in the amended written statement (Annexure P-12), the specific plea of the petitioner, more so in paras 4(a) and 4(b), was that it was the plaintiff who was not ready and willing to perform his part of the contract and the defendant had got her presence marked before the Sub Registrar and that the defendant was ready and willing to perform her part of the contract. It is argued that one of the issues which would arise before the trial Court, more so, before considering as to whether the compensation is to be paid or not would be as to which party was ready and willing and which party was not ready and willing to



perform their part of the contract. It is submitted that in the said circumstances, it cannot be said that the said aspect is not relevant.

5. Learned counsel for the petitioner has however fairly submitted that the petitioner does not wish to delay the proceedings as the suit filed by the plaintiff is for recovery and would be satisfied in case it is observed that the said aspect of “ready and willing” would also be considered under issue No.1.

6. Keeping in view the abovesaid facts and circumstances and fair statement made by learned counsel for the petitioner, the present revision petition is disposed of with the observations that the aspect of “ready and willing” would be duly considered by the trial Court under issue No.1 after giving due opportunity to both the parties to lead their evidence and to raise their submissions.

7. In the present case, no notice is being issued to the respondent as issuance of notice to the respondent would further delay the proceedings and would also entail expenses for respondent to defend the present revision petition. However, in case the respondent is aggrieved by the present order, then it would be open to the respondent to move an application for recalling of the present order.

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

28.01.2025

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No