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

CR-1005-2025

Date of decision: 17.02.2025

Ram Dass

...Petitioner

Versus

Narender

...Respondent

**CORAM: HON'BLE MR. JUSTICE VIKAS BAHL**

Present: Mr. Harkirat Singh, Advocate for the petitioner.

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**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 01.02.2025 (Annexure P-5) vide which an application of the petitioner/defendant dated 08.01.2025 (Annexure P-3) filed under Order 6 Rule 17 CPC read with Section 151 CPC for amendment of the written statement has been rejected.

2. Learned counsel for the petitioner has submitted that the petitioner wishes to add para 12-A in the written statement and wishes to take the plea that the present transaction was a loan transaction between the plaintiff and brother of the defendant and the plaintiff had agreed to give the loan to the brother of the defendant in case the defendant/present petitioner gave guarantee for the same to the plaintiff and accordingly, the plaintiff had taken the present petitioner/defendant and his brother to the Tehsil



office for execution of the guarantee deed and had prepared the agreement for the purposes of the said guarantee. It was further stated that the petitioner had put signatures on the blank papers at the dictation of the plaintiff and that the present petitioner never agreed to sell the house to the plaintiff nor received any amount under the said agreement to sell. It is submitted that the said application filed under Order 6 Rule 17 CPC had been rejected by the trial Court although the said application was filed in order to bring out the correct facts. It is thus, prayed that the impugned order be set aside and the application filed by the petitioner under Order 6 Rule 17 CPC be allowed.

3. This Court has heard learned counsel for the petitioner 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 being meritless, deserves to be dismissed for the reasons detailed hereinafter.

4. It is not in dispute that the respondent-Narender had filed a suit for possession by way of specific performance of the agreement to sell dated 08.03.2018 directing the present petitioner/defendant to execute the sale deed with respect to the property in question. In the plaint, it was stated that the agreement was entered on 08.03.2018 for a total consideration of Rs.7,50,000/- and the petitioner/defendant had received a sum of Rs.2,00,000/- as earnest money and remaining sale consideration was to be paid by the plaintiff at the time of registration of the sale deed i.e., 25.02.2019. It is further submitted that the plaintiff had



gone to the office of Tehsildar on 25.02.2019 with the remaining sale consideration and thus, he was ready and willing to perform his part of the agreement.

5. A written statement was filed by the defendant in which it was admitted by the petitioner/defendant that he had sold the suit property to the plaintiff for a total consideration of Rs.7,50,000/- and had further admitted that he had received an amount of Rs.2,00,000/- from the plaintiff and the agreement to sell was reduced into writing on 08.03.2018. Even the factum that the date of execution and registration of sale deed was 25.02.2019 was also admitted. Only plea for dismissal of the suit taken by the defendant in the original written statement was that it was the plaintiff who was not ready and willing to perform his part of the contract and that the petitioner/defendant had gone to the Tehsil office on 25.02.2019 for execution and registration of the sale deed on receiving the balance sale consideration but the plaintiff never came and thus, the petitioner/defendant had moved an application for marking his presence before the office of Tehsildar. It was further stated that the petitioner had served the plaintiff with the legal notice thereafter.

6. By making an amendment, the petitioner wishes to take mutually destructive plea to the plea already taken in the written statement. In the written statement, the factum of agreement as well as payment of the earnest money and the date of execution of the sale deed had been admitted by the petitioner and the only question which was required to be determined was as to whether it was the plaintiff or the



defendant who was not ready and willing to execute the sale deed. The plea now sought to be taken in para 12-A is that the petitioner/defendant never agreed to sell the house to the plaintiff and it was only a guarantee deed and he never received the earnest money and it was his brother who received the loan amount and the petitioner had only entered into the agreement as a guarantor. The said para 12-A, which follows the averments made in paras 1 to 12 in the original written statement, would show that the pleadings in the proposed amended written statement are inconsistent and mutually destructive and are apparently made to withdraw the admissions made in paras 1 to 12 and hence, are not permissible.

7. The suit was filed in the year 2019 and the written statement was also filed thereafter. On a pointed query raised by this Court, learned counsel for the petitioner has fairly submitted that in the present case, the issues have been framed and the evidence of the plaintiff as well as of the defendant has been led and the case is now fixed for rebuttal evidence. The application for amendment had been filed on 08.01.2025 after the trial had commenced. The alleged pleas sought to be raised were available to the petitioner/defendant prior to the framing of the issues and even at the time of filing of the original written statement and thus, the amendment sought is also hit by the proviso to Order 6 Rule 17 CPC and it cannot even remotely be said that the petitioner had filed the application under Order 6 Rule 17 CPC with due diligence. In case the amendment is allowed, then, apart from delaying the suit filed by the



respondent for possession by way of specific performance, same would also severely prejudice the plaintiff as he has led his entire evidence on the basis of pleas raised in the original written statement wherein agreement as well as the receipt of earnest money has been admitted.

8. 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.

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

**17.02.2025**

*Pawan*

**(VIKAS BAHL)  
JUDGE**

**Whether speaking/reasoned:-**

**Yes/No**

**Whether reportable:-**

**Yes/No**