



CR-6672-2025 (O&M)

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

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**CR-6672-2025 (O&M)
Decided on :- 19.09.2025**

Parkash

...Petitioner

VERSUS

Rajbir (since deceased) through LRs

...Respondent

CORAM : HON'BLE MS. JUSTICE MANDEEP PANNU

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

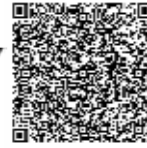
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MANDEEP PANNU J.

1. The present revision petition under Article 227 of the Constitution of India has been filed by the defendant–petitioner assailing the order dated 10.09.2025 passed by the learned Additional District Judge (Junior Division), Jhajjar, whereby the application filed by the petitioner under Order 41 Rule 25 CPC for framing of an additional issue has been dismissed.

Brief Facts

2. The brief facts leading to the present petition are that the plaintiff–respondent instituted a suit for specific performance of an agreement to sell dated 05.03.2014, allegedly executed by the defendant in his favour. The defendant contested the claim and filed written statement, specifically pleading that he never executed any agreement to sell on 05.03.2014 and that in fact the true transaction between the parties was an earlier agreement to sell dated 07.02.2013. On the basis of the pleadings, issues were framed by the learned trial Court. Issue No.1, which



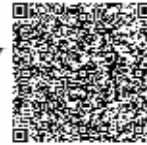
covered the controversy, was framed as: “Whether the plaintiff is entitled for decree of specific performance as averred in the plaint? OPP.”

3. The learned trial Court, while deciding the matter, considered the evidence adduced by both parties. In paragraphs 26, 27, 31 and 32 of the judgment, the learned trial Court specifically discussed the case of the defendant regarding the alleged prior agreement dated 07.02.2013, marked as Ex. D1, as well as the entries in the register of the deed writer relied upon by the defendant. After analysing the oral and documentary evidence, the trial Court returned detailed findings on this plea, and ultimately decreed the suit of the plaintiff.

4. The defendant preferred an appeal against the judgment and decree. During the pendency of the appeal, he moved an application under Order 41 Rule 25 CPC praying for framing of an additional issue regarding the execution and effect of the agreement dated 07.02.2013. The appellate Court, after hearing both sides, dismissed the application, holding that the matter regarding the alleged agreement dated 07.02.2013 had already been specifically considered and decided by the trial Court, and therefore, no occasion arose to invoke the provisions of Order 41 Rule 25 CPC for framing an additional issue.

Submissions of learned counsel for the petitioner

5. Learned counsel for the petitioner argued before this Court that the defendant’s plea about the prior agreement dated 07.02.2013 was a distinct defence which had a direct bearing on the genuineness of the subsequent agreement dated 05.03.2014. It is submitted that non-framing of a specific issue on the earlier agreement has prejudiced the defendant, and therefore the lower appellate Court erred in declining the request to frame an additional issue.

**Findings**

6. I have considered the contention and find no merit in the same. A perusal of the judgment of the trial Court clearly reveals that the plea of the defendant regarding the alleged earlier agreement dated 07.02.2013 was not ignored. On the contrary, the trial Court took note of the document Ex. D1, examined the entries in the register of the deed writer and gave detailed findings in paragraphs 27 and 32 of its judgment. Thus, the Court was alive to the defence set up by the defendant and adjudicated upon it while deciding Issue No.1. Once the trial Court has already examined the matter on merits and returned findings, it cannot be said that the absence of a separately worded issue has caused any prejudice.

7. Order 41 Rule 25 CPC empowers the appellate Court to frame additional issues and remit them to the trial Court for trial if the Court considers that an issue essential for the just decision of the case has not been tried. The object of the provision is to ensure that no material question of fact remains undecided. However, the said power is not to be exercised where the trial Court has, in fact, considered the matter and rendered a finding, though without framing a separate formal issue. The test is whether the Court was conscious of the controversy and decided it. In the present case, as noticed above, the trial Court has given specific findings on the alleged agreement dated 07.02.2013. Therefore, the situation does not attract Order 41 Rule 25 CPC.



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Conclusion

8. In this view of the matter, the order of the lower appellate Court refusing to frame an additional issue is fully justified and does not suffer from any illegality or perversity warranting interference under Article 227 of the Constitution of India.

9. Consequently, the present revision petition is dismissed.

10. Pending application(s), if any, also stand disposed of.

September 19, 2025
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(MANDEEP PANNU)
JUDGE

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No