

**107 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****RSA-2917-2017 (O&M)****Date of Decision: May 26, 2025****Om Parkash****... Appellant****Versus**

Amar Singh (Since Deceased) through LRs and others ... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA**Present:-** Mr. Randhir Singh Hooda, Advocate for the appellant.

Ms. Himani Sarin, Adocate for respondent Nos.2 and 3.

DEEPAK GUPTA, J.(Oral)

Suit for possession by way of specific performance of agreement to sell dated 27.09.2001 filed by plaintiff - Om Parkash (appellant herein) was dismissed by learned Addl. Civil Judge (Sr. Divn.), Gurgaon vide judgment dated 31.10.2013.

2. Concededly during the pendency of the appeal filed before the District Judge, Gurugram, an application under Order 41 Rule 27 CPC (Annexure A-1) was moved by the appellant. Even reply (Annexure A-2) to the said application was filed by the respondents. However, without even advertng to the said application what to talk of considering the same, the First Appellate Court dismissed the appeal vide judgment dated 11.01.2017. The concurrent findings of the Courts below against him have compelled the appellant to approach this Court.

3. The only contention at this stage raised by learned counsel for the appellant is that since the application under Order 41 Rule 27 CPC for producing additional evidence has not been considered, therefore, the matter should be remanded back to the First Appellate Court.

4. Learned counsel for respondent Nos.2 and 3 could not refute the legal position in this regard. It is also conceded that even in the record

of First Appellate Court, there is reference of moving of the application, but the same has not been decided.

5. In view of the settled legal position, the order dated 11.01.2017 passed by the First Appellate Court, is hereby set aside and the matter is remanded back to the First Appellate Court, so as to consider the application under Order 41 Rule 27 CPC in accordance with law and then dispose of the appeal on merits accordingly.

6. Both the parties shall appear before learned District Judge, Gurugram on 01.07.2025. Learned District Judge, Gurgaon, will assign the case either to the successor Court of First Appellate Court or to any other Addl. District Judge, whomsoever he may choose. On assignment, the concerned First Appellate Court shall dispose of the appeal within next three months positively, considering the fact that the matter is quite old.

Disposed of.

May 26, 2025

sarita

**(DEEPAK GUPTA)
JUDGE**

Whether reasoned/speaking:

Yes/No

Whether reportable:

Yes/No