

SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			<p><u>CLR No. 62 of 2025</u> <u>Hon'ble Rakesh Thapliyal, J.</u></p> <ol style="list-style-type: none"> 1. Mr. Shivam Sharma, learned counsel for the revisionist. 2. Mr. Siddharth Singh, learned counsel for respondent no.1. 3. Ms. Gurbani Singh, learned counsel for respondent nos. 2 and 3. 4. The revisionist is aggrieved by the order of the Trial Court dated 03.04.2025 passed in Original Civil Suit No. 245 of 202 whereby the application moved under order 1 Rule 10 of CPC has been rejected. 5. The brief facts of the case are that the Original Civil Suit No. 245 of 2022 was instituted by the plaintiff titled as Aragon Infratech Pvt. Ltd. Vs. Trilok Singh for specific performance against one Trilok Singh and Smt. Sheetal on the basis of registered agreement to sale dated 21.11.2017, executed by one Niranjana Kaur through its power of attorney holder Gulshan Kumar who is the revisionist herein. The description of the property is mentioned in the schedule of the plaint. The defendants in the said suit are in fact son and daughter of one Late Niranjana Kaur who owned the property. Earlier to the agreement to sell dated 21.11.2017, two documents were executed in favour of the revisionist no. 1 one is the power of attorney dated 28.07.2017 and other one unregistered agreement to sale dated 27.07.2017. Thereafter revisionist no. 1 Gulshan Kumar, being power of attorney holder of Smt. Niranjana Kaur executed registered agreement to sale in favour of

		<p>the plaintiff of the aforesaid suit. In the meantime, Smt. Niranjana Kaur died on 19.01.2018. Thereafter, in the month of October, an application was moved under Order 1 Rule 10 of CPC by Gulshan Kumar and the legal heirs of one Lekhraj Thakur in favour of whom on 27.07.2017 Smt. Niranjana Kaur executed unregistered agreement to sale on the ground that the suit property is the same for which Smt. Niranjana Kaur executed agreement to sale in favour of the revisionist no. 1 and one Lekhraj Thakur with the consideration of Rs. 10 crore out of which Rs. 1.30 crore were paid by online transaction.</p> <p>On the application filed under order 1 Rule 10 of CPC plaintiff filed their objection on the ground that the application is misconceived and furthermore the applicants derived rights by way of power of attorney and unregistered agreement to sale, and, since, Ms. Niranjana Kaur died on 19.01.2018, therefore, the application cannot be allowed.</p> <p>6. Now being aggrieved with the rejection of application under Order 1 Rule 10 of CPC the instant revision has been filed.</p> <p>7. Learned counsel for the revisionist submits that present revisionist are necessary and proper party to be impleaded as defendants in the suit, since, in respect of the same property, which is subject matter of the suit filed by the respondent/ plaintiff, already an agreement to sale was executed by Smt. Niranjana Kaur on 27.07.2017 whereby she agreed to sell the property with the consideration of Rs. 10 crore out of which Rs/ 1.30 crore were paid through online transactions. He also argued that the suit filed by the respondent/plaintiff is collusive suit in collusion of the defendants who are nothing but the legal heirs of Late Smt.</p>
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Niranjan Kaur. In support of his arguments he gave reference of certain provisions of Registration Act 1908 particularly Section 49 and its proviso, which reads as under: -

49. Effect of non-registration of documents required to be registered.- No document required by section 17 [or by any provision of the Transfer of Property Act, 1882 (4 of 1882) to be registered shall

(a) affect any immovable property comprised therein, or

(b) confer any power to adopt, or

(c) be received as evidence of any transaction affecting such property or conferring such power, unless it has been registered:

[Provided that an unregistered document affecting immovable property and required by this Act, or the Transfer of Property Act, 1882 (4 of 1882), to be registered may be received as evidence of a contract in a suit for specific performance under Chapter II of the [Specific Relief Act, 1877] or as evidence of any collateral transaction not required to be effected by registered instrument.]

8. Learned counsel for the revisionist also placed before this Court the account statement of revisionist no. 1 Mr. Gulshan Kumar in order to show that the amount was transferred and credited in the account of Late Niranjan Kaur.

9. Mr. Siddharth Singh, learned counsel for respondent no. 1/plaintiff argued that the claim as put up by the revisionist by way of an application under Order 1 Rule 10 of CPC is barred by Section 17 and 49 of Indian Registration Act, Section 35 of Stamp Act, Section 54 of the Transfer of Property Act and Article 51 of the Limitation Act, and, as such the revisionists has no locus to file an application under Order 1 Rule 10 of CPC in the suit filed by the plaintiff. He also submits that scope of Section 115 of CPC is limited, therefore, all these aspects cannot be looked into by this Court while entertaining the civil revision, since, the Trial Court exercised its jurisdiction vested

			<p>under the Law.</p> <p>10. Ms. Gurbani Singh, learned counsel who appears for respondent no. 2 and 3 also make same submission as advanced by Mr. Singh, however, may get account statement of late Smt. Niranjani Kaur on the next date.</p> <p>11. Put up this matter on 12.11.2025.</p> <p style="text-align: right;">(Rakesh Thapliyal, J.) 06.11.2025</p> <p>Parul</p>
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