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

CR No.2168 of 2015 (O&M)

Date of decision: March 27, 2015

Naresh Jindal

.....Petitioner

Versus

Ajay Jindal and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

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

SABINA, J

Petitioner has filed this petition challenging the order dated 19.02.2015 (Annexure P-3), whereby application moved by the petitioner for treating the issue of limitation as preliminary issue, was dismissed.

I have heard learned counsel for the petitioner and have gone through the record available on the file carefully.

Order 14 Rule 2 of Code of Civil Procedure, 1908 ('CPC' for short) reads as under:-

“(2) Where issues both of law and of fact arise in the same suit, and the Court is of opinion that the case or any part thereof may be disposed of on an issue of law only, it may try that issue first if that issue relates to —

(a) the jurisdiction of the Court, or

(b) a bar to the suit created by any law for the time being in force, and for that purpose may, if it thinks fit, postpone the settlement of the other issues until after that issue has been determined, and may deal with the suit in accordance with the decision on that issue.”

In the present case, respondent No.1 has filed suit for recovery against M/s Harbans Lal through its sole proprietor Harbans Lal. Harbans Lal proprietor is now represented by the legal representatives. Defendants took up the objection that the suit is bad for misjoinder for necessary parties as petitioner had not been impleaded as a defendant, who was also son of Harbans Lal. Thereafter, petitioner was impleaded as defendant No.6 being legal representative of the defendant-Harbans Lal.

Petitioner moved an application under Order 14 Rule 2 CPC praying that suit was time barred qua him and the said issue be treated as preliminary issue. The learned trial Court while dismissing the application rightly held that the issue sought to be treated by the petitioner as preliminary issue could not be disposed of as a preliminary issue. So far as other defendants are concerned, issue qua limitation had not been framed against them. So at this stage, it would not be appropriate to dispose of the issue of limitation qua the petitioner alone by treating it as a preliminary issue.

No ground for interference by this Court, is made out.

Dismissed.

**(SABINA)
JUDGE**

March 27, 2015
m.singh