

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CR 4424 of 2015

Date of Decision: July 16, 2015

NIIT Education centre

.....Petitioner

Vs.

Ajay Kumar Salwan

.....Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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Present:- Mr.Vivek Salathia, Advocate for the petitioner.

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M.M.S. BEDI, J. (ORAL)

This is defendant's revision petition against the order dated April 1, 2015. Vide impugned order, the application filed by the defendant-petitioner for framing a preliminary issue regarding limitation has been disposed of holding that the suit is within limitation.

Counsel for the petitioner submits that without framing an issue on the plea of limitation, the trial Court has adjudicated upon the same and framed the issues on the pleadings by a combined order dated April 1, 2015. It is claimed that the option open to the Court was either to treat the issue of limitation as a preliminary issue and decide the case or to treat the issue of limitation as an issue for adjudication alongwith the other issues.

I have heard learned counsel for the petitioner and I am of the opinion that as the plea raised by the defendant warranted adjudication on the issue of limitation as an issue of fact and law, the order finally deciding the plea of limitation vide impugned order dated April 1, 2015 does not appear to be appropriate.

The present petition is disposed of with a direction that in case the petitioner moves an application under Order 14 Rule 5 CPC for framing of an issue on limitation, the same shall be allowed on the basis of the pleadings. The observations of the Court on the point of limitation expressed vide order dated April 1, 2015 would not debar the adjudication of said issue of limitation. Observation made will be deemed to be only for the purpose of adjudication of the misc. application filed by the petitioner. Nothing said in this order will prejudice the adjudication of the issue on limitation as an issue of fact and law to be adjudicated by producing evidence as per provisions of Section 5 of the Evidence Act which permits the production of evidence of the facts in issue and the relevant facts.

It is observed here that this Court has opted to dispose of the petition in limine in order to save the plaintiff- respondent from unnecessary expenditure and in the interest of expeditious disposal of the suit. In case this order is not acceptable to the plaintiff- respondent, it will be open to the plaintiff- respondent to approach this Court for modification of the order.

July 16, 2015
sanjay

(M.M.S.BEDI)
JUDGE