

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.6636 of 2015
Date of Decision: October 07, 2015

M/s Raghubir Machinery Pvt.Ltd., Gurgaon & another

...Petitioners

Versus

Sataya Narain Yadav

...Respondent

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr.Rajesh Lamba, Advocate,
for the petitioners.

AMIT RAWAL, J. (Oral)

The challenge in the present revision petition is to the impugned order dated 31.7.2015 (Annexure P-4), whereby the application filed under Order 7 Rule 11 CPC at the instance of the petitioner-defendants seeking rejection of the plaint (Annexure P-1), has been rejected.

Mr.Rajesh Lamba, learned counsel appearing on behalf of the petitioner-defendants submits that on going through the pleadings of the plaint, the suit, *ex-facie*, was time barred inasmuch as that the amount due against the petitioner-defendants was w.e.f. 21.10.2010 and the limitation to recover the same expired on 20.10.2013, whereas the suit has been filed in 2015 by making an averment that the officials of the defendants had given a written letter dated 25.2.2014 and receipt dated 21.8.2014. He, in support of his contention, relies upon the provisions of Section 18 of the Limitation Act to contend that in case the acknowledgment was within the period of limitation, only then the time of limitation would be enlarged for seeking recovery of the amount, if any due.

I have heard the learned counsel for the petitioner-defendants and appraised the paper book.

The petitioner-defendants instead of filing the written statement, have chosen to file the aforementioned application. Obviously, the petitioners intend to take up the objection of limitation in the written statement. In case any objection is taken in the written statement, the trial Court, as per the provisions of Order 14 Rule 2 CPC, is expected to frame the issue vis-a-vis the limitation. In case any issue regarding limitation is framed, then the same shall be considered as preliminary before parties are directed to lead evidence on the merits of the case as the question of limitation in the present would be a mixed question of fact and law.

With the aforementioned observations, the revision petition stands disposed of.

October 07, 2015
ramesh

(AMIT RAWAL)
JUDGE