

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

I.

Regular Second Appeal No.2239 of 2007 (O&M)

Date of decision: 10.4.2015

Bharat Sanchar Nigam Limited

... Appellant

Versus

Mohinder Singh

... Respondents

II.

Regular Second Appeal No.5009 of 2009 (O&M)

Bharat Sanchar Nigam Limited

... Appellant

Versus

M/s Panesar Enterprises

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Madan Mohan, Advocate,
for the appellant.
Mr.Angel Sharma, Amicus Curiae,
for the respondent.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.(Oral)

Application for delay in re-filing the appeal

For the reasons stated in the application, the CM is allowed and
the delay in re-filing the appeal is condoned.

RSA No.2239 of 2007 and RSA No.5009 of 2009.

This order will dispose of two RSA No.2239 of 2007 and RSA No.5009 of 2009 as common questions of law and facts are involved in both the appeals. The facts are taken from RSA No.2239 of 2007 for convenience.

None has appeared for the appellant. Mr. Angel Sharma, Advocate is appointed as Amicus Curiae.

Heard.

The only question involved in this case is as to when would the period of limitation run against BSNL in bringing suits against the defendants. Learned Additional District Judge, Bhiwani by his judgment and decree dated 4.11.2006 has non-suited the appellants by holding that the suit was barred from the date of accrual of cause of action which have been reckoned from 1.2.1993, 1.4.1993, 1.4.1994, 1.6.1994 and 1.8.1994 respectively and by taking these dates into consideration, the suits have been dismissed since they were filed on 1.10.2003 and 30.9.2003 respectively after the expiry of 3 years of the cause of action. However, it is certain that the suit in the present case was filed on 1.10.2003. The view taken by the learned Additional District Judge, Bhiwani is not the correct legal position as explained by this Court in BSNL v. M/s National Auto Store RSA No.2977 of 2011 decided on 12.3.2014 in which it has been held that limitation would run from the date the BSNL was carved out from the Department of Telecommunications and made an autonomous independent entity with effect from 1.10.2000 vide notification dated 30.9.2000 from which it ceases to enjoy the status of a Department of Government of India

and ceased to have the protection of 30 years for recovery of money. This Court has taken the view that the amount due from the defendants to the Union of India would enure for recovery within 3 years from the date of incorporation i.e. 1.10.2000 and the period of 3 years would be counted from that date. When counted in this manner, the limitation would expire on 1.10.2003 the date when the suit was filed. Therefore, the suit was within limitation. Resultantly, the impugned judgment and decree passed by the learned Additional District Judge, Bhiwani is set aside being erroneous in view of the above statement of law in relation to article 112 of the Limitation Act, 1963.

As a result, the impugned judgment and decrees of the Courts below are maintained on merits but are set aside on the question of limitation and it is declared that the suits were within limitation.

Both the appeals are allowed to the extent indicated above.

(RAJIV NARAIN RAINA)
JUDGE

April 10, 2015
Paritosh Kumar