

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Date of decision : September 03, 2015

1. R.S.A. No. 4025 of 2008

Bharat Sanchar Nigam Ltd

... Appellant

vs.

Chhabil Dass

... Respondent

2. R.S.A. No. 645 of 2009

Bharat Sanchar Nigam Ltd

... Appellant

vs.

Prem Chand

... Respondent

3. R.S.A. No. 665 of 2009

Bharat Sanchar Nigam Ltd

... Appellant

vs.

M/s Special Machines

... Respondent

4. R.S.A. No. 1245 of 2009

Bharat Sanchar Nigam Ltd

... Appellant

vs.

Suresh Kumar

... Respondent

5. R.S.A. No. 1679 of 2009

Bharat Sanchar Nigam Ltd

... Appellant

vs.

Satya Parkash Gupta and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Madan Mohan, Advocate
for the appellant.

Mr. Sandeep Berwal, Advocate
for respondent in RSA No.645 of 2009

Mr. Amit Kashyap, Advocate for
Mr. Rajinder Goyal, Advocate
for respondents in RSA No. 4025 of 2008 and
Nos. 665, 1245 and 1679 of 2009.

Surinder Gupta, J

All the appeals mentioned above have been taken up together for disposal as similar question of law is involved in all these appeals.

2. Bharat Sanchar Nigam Limited (BSNL) filed these appeals No. 4025 of 2008, 645, 665, 1245 and 1679 of 2009 against the judgment of first appellate court declining the relief of recovery of various amounts with interest claimed as due against respondent (s) being outstanding telephone bills on the ground that the claim of appellant is barred by limitation.

3. The defendant-respondent while admitting that the telephone connection had been provided to them, denied their liability to pay any amount allegedly outstanding against them. They also raised preliminary objection that suit filed by BSNL was barred by time.

4. The suit filed by BSNL was decreed but in appeal the judgment of lower court was set aside and it was observed that BSNL was not entitled to recover the suit amount as their claim was barred by limitation, as the suit was filed beyond three years from the date of accrual of cause of action.

5. The substantial question of law which arises for determination in these appeals is as to whether the civil suit filed by BSNL (a company), which came into existence w.e.f. 1.10.2000 as successor-in-interest of Union of India, within the period of three years of its incorporation and coming into existence are barred by limitation?

6. In a bunch of appeals decided vide judgment dated 20.1.2015 by this Court, it was observed in para nos. 9 to 11 as follows :-

“9. In a catena of judgment of this Court and also affirmed by the Hon’ble Supreme Court, it is now settled preposition of law that limitation in suit for recovery filed by BSNL within 3 years of its incorporation i.e. 01.10.2000 are within limitation. A coordinate Bench of this Court in case of Bharat Sanchar Nigam Limited vs. Satpal Gupta (RSA-1374-2010) decided on 01.10.2012 examined the legal proposition in similar facts and circumstances and observed as follows:

Plaintiff-appellant(s) BSNL (a company) came into existence w.e.f. 01.10.2000 as successor-in-interest of Union of India. Limitation period for filing of suit by

Union of India is 30 years. Therefore, suit filed on 30.09.2003 would have been within limitation, if filed by Union of India. However, admittedly, limitation period for filing a suit by BSNL is three years. The suit was filed by BSNL within limitation period of three years from its coming into existence. Consequently, the suit is within limitation. In this view, I am supported by three unreported judgments of this Court namely M/s B. S. Sidhu and Company vs. Bharat Sanchar Nigam Limited and another passed in R. S. A. No. 5042 of 2009 - decided on 25.03.2010, Rai Singh vs. Bharat Sanchar Nigam Limited passed in R. S. A. No. 3817 of 2007 - decided on 23.09.2008 and Banarsi Dass Sharma vs. Bharat Sanchar Nigam Ltd. passed in R. S. A. No. 2628 of 2009 - decided on 23.04.2010. Counsel for defendant (s)-respondent(s), however, relied on judgment of this Court in the case of Bharat Sanchar Nigam Ltd. vs. Pawan Kumar Gupta reported as 2007 (4) Civil Court Cases 366. However, this judgment has also been considered in the case of M/s B. S. Sidhu and Company (supra) and also in the case of Banarsi Dass Sharma (supra). Consequently, it is held that suit filed by the plaintiff-appellant(s) is within limitation.

10. Sat Pal Gupta filed SLP (Civil) 27144 of 2012 wherein Hon'ble Supreme Court found no error in the view taken in the aforesaid appeal on the question of limitation.

11. In view of the above settled proposition of law the findings of Courts below that the suit is barred by limitation are perverse and not legally sustainable. The suit filed by the plaintiff in the appeals captioned above were all filed before 30.09.2003, as such, are held to be within limitation. All the suits for recovery filed by BSNL on or before 30.09.2003 are within limitation."

7. In all the cases under appeal, the suit was filed on or before 30.9.2003, as such, were well within limitation. The issue, as such, is no more *res-integra* and the substantial question of law is answered in favour of appellant.

8. As a sequel of my above discussion, regular second appeals no.4025 of 2008, 645, 665, 1245 and 1679 of 2009 are allowed with costs throughout and the judgment and decree of first appellate court is set aside and that of Civil Judge (Jr. Division), Kaithal is restored.

(Surinder Gupta)
Judge

September 03, 2015
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