

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

RSA NO.529 OF 2009 (O&M)
DATE OF DECISION : 20th JANUARY, 2015

Bharat Sanchar Nigam Limited (BSNL)

.... Appellant

Versus

Krishan Chand Mittal

.... Respondent

RSA NO.2496 OF 2008 (O&M)

Bharat Sanchar Nigam Limited (BSNL)

.... Appellant

Versus

Mohan Lal Bhatnagar

.... Respondent

RSA NO.2117 OF 2008 (O&M)

Bharat Sanchar Nigam Limited (BSNL)

.... Appellant

Versus

Davinder Jain

.... Respondent

RSA NO.1199 OF 2009 (O&M)

Bharat Sanchar Nigam Limited (BSNL)

.... Appellant

Versus

Ravinder Kumar Jain

.... Respondent

CORAM : HON'BLE MR. JUSTICE SURINDER GUPTA

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Present : Mr. Madan Mohan, Advocate for appellant(s).

Mr. Rajender Goyal, Advocate for respondent in RSA-529-2009.

Mr. Sanjiv Gupta, Advocate for respondent in RSA-2117-2008.

None for respondent(s) in RSA-2496-2008 and RSA-1199-2009.

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SURINDER GUPTA, J. (ORAL)

1. This judgment will dispose of the above captioned appeals. 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) has filed these appeals bearing **RSA No.529 of 2009 (instant appeal), RSA No.2496 of 2008, RSA No.2117 of 2008 and RSA No.1199 of 2009** against finding of appellate Court below, declining relief of recovery of various amounts with interest claimed as due against the respondent(s) being outstanding amount of the telephone bills, on the ground that the claim of appellant(s) is barred by limitation.

3. The plea of defendant(s)-respondent(s) that suits filed by appellant were barred by limitation was repelled by lower Court on the ground that the BSNL was incorporated on 01.10.2000 and the suits filed on 29.09.2003 are within limitation. Not satisfied, the defendant(s)/respondent(s) filed appeal(s), which were allowed by first appellate Court and the suits filed by the appellant(s) were dismissed with observation that same was hopelessly time barred from the date of accrual of the cause of action, as the suit amount had fallen due in the last decade of twentieth century and suit was

filed in September 2009. Feeling aggrieved, the plaintiff-BSNL has preferred the above captioned second appeals.

4. I have heard learned counsel for the parties and perused the paper book(s).

5. Relief of recovery of the suit amount was declined to the plaintiff(s)-appellant(s) on the ground that suit was not filed within a period of three years from the date of accrual of cause of action, which has been reckoned from the date the suit amount becomes due in the suit filed by BSNL between 1991 to 1997. Learned counsel for the appellant(s) has argued that it is no more *res integra* that the period of limitation for filing the suit against the BSNL, commenced w.e.f. 01.10.2000, when the company was incorporated, as such, these suits which have been filed on or before 30.09.2003 are within limitation. He argues that earlier there was conflict in observation of different Benches of this High Court on this point but the matter has since been settled as the Hon'ble Supreme Court affirming the view of Hon'ble Single Bench of this Court in the case of ***Bharat Sanchar Nigam Limited vs. Satpal Gupta (RSA-1374-2010)*** that the limitation starts from the date of incorporation of BSNL and not from the day cause of action accrued to recover suit amount.

6. The learned counsel for the respondent(s) argue that in the case of ***Bharat Sanchar Nigam Limited vs. Pawan Kumar Gupta*** reported as ***2007(4) Civil Court Cases 366***, it was observed by Single Bench of this Court that the suit of BSNL filed beyond the period of three years from the

date of cause of action, was barred by limitation. Appeal against the above judgment is still pending before the Hon'ble Supreme Court.

7. Finding of the Additional Civil Judge that the suit amount was outstanding against the defendant(s)-respondent(s) has become final as no appeal was filed against this finding. Now the only question, which arises for consideration in these appeals, is whether in the facts and circumstances discussed above the suit is barred by limitation or not.

8. 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 is within 3 years from the date of its incorporation i.e. 01.10.2000. 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.”

9. 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.

10. 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 30.06.2003, 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.

11. As a sequel of my above discussion all the above captioned appeals are allowed and the judgment and decree of appellate Court below are set aside.

RSA No.529 of 2009 (instant appeal)

12. The suit filed by the plaintiff-appellant is decreed with costs throughout for recovery of ₹60,233/- (Rupees sixty thousand two hundred and thirty three only) along with pendente lite and future interest @ 12 % per annum.

RSA No.2496 of 2008

13. The suit filed by the plaintiff-appellant is decreed with costs throughout for recovery of ₹52,297/- (Rupees fifty thousand two hundred and ninety seven only) along with pendente lite and future interest @ 12 % per annum.

RSA No.2117 of 2008

14. The suit filed by the plaintiff-appellant is decreed with costs throughout for recovery of ₹81,837/- (Rupees eighty one thousand eight hundred and thirty seven only) along with pendente lite and future interest @ 12 % per annum.

RSA No.1199 of 2009

15. The suit filed by the plaintiff-appellant is decreed with costs throughout for recovery of ₹78,499/- (Rupees seventy eight thousand four

hundred and ninety nine only) along with pendente lite and future interest @ 12 % per annum.

16. The interest in all the above appeals has been allowed @ 12% as the matter relates to the recovery of the charges payable on account of services provided by the BSNL which was a commercial and business transaction of the plaintiff.

20th January, 2015
'raj'

(SURINDER GUPTA)
JUDGE