

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

**RSA No.4466 of 2015 (O&M)
Date of decision: 17.12.2015**

M/s Metro Motors Pvt. Ltd.

... Appellant

Vs.

Raman Sharma

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

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

Present:- Mr. V.B.Aggarwal, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

C.M.No.10706-C-2015

For the reasons stated in the application, duly supported by an affidavit, delay of 10 days in re-filing the appeal, is condoned.

C.M. stands disposed of.

C.M.No.10707-C-2015

For the reasons stated in the application, duly supported by an affidavit, delay of 21 days in filing the appeal, is condoned.

C.M. stands disposed of.

RSA No.4466 of 2015 (O&M)

Appellant-plaintiff is in Regular Second Appeal against the concurrent findings of facts and law, whereby, the suit for declaration

claiming recovery of repair charges of TATA-207 model as per the bill dated 28.09.2004 along with interest from the defendant, has been dismissed.

Mr. V.B.Aggarwal, learned counsel appearing on behalf of the appellant-plaintiff submits that the suit was filed on 14.09.2007. The trial Court dismissed the suit on the ground that suit for declaration was not maintainable, in essence, the suit was for recovery. The appeal filed against against the said judgment and decree, also met with the same fate. He further submits that he may be allowed to withdraw the suit with liberty to file afresh in accordance with law.

I have heard learned counsel for the appellant-plaintiff and appraised the impugned judgments and decrees of the Courts below.

The bill is of dated 28.09.2004 and the suit had been filed few days before expiry of limitation and in case, the request of the appellant-plaintiff is accepted, it would be circumvent upon the period of limitation vide which the valuable right had accrued in favour of the defendant which cannot be permitted in law. Even the prayer of the withdrawal of the suit cannot be permitted as the appellant-plaintiff may not file a suit for recovery being barred by law of limitation.

In view of the aforementioned observations, I do not intend to differ with the findings rendered by the Courts below, based upon the appreciation of oral and documentary evidence, much less,

no substantial question of law arises for adjudication of the present appeal.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

December 17, 2015
savita