

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

RSA-6108 of 2015

Date of Decision: December 14, 2015

Lok Nath Prasad

...Plaintiff/appellant

vs.

Mahender Panday & another

...Defendant/respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Adarsh Jain, Advocate
for the appellant.

1. *Whether Reporters of Local Newspapers 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?*

Kuldip Singh J.(Oral)

Impugned in the present Regular Second Appeal is the order dated 08.05.2014 passed by learned Civil Judge (Jr. Divn.), Faridabad whereby in an application under Order 7 Rule 11 CPC Court rejected the plaint on the ground that it does not disclose any cause of action, the lower Court rejected the plaint on the ground that the suit for cancellation of sale deed is filed after 15 years and it is time barred. The judgment was upheld in appeal by learned District Judge, Faridabad vide judgment dated 26.08.2015.

I have heard learned counsel for the appellant and have also carefully gone through the case file.

For the purpose of Order 7 Rule 11 CPC only plaint is to be read. The perusal of the plaint shows that according to the plaintiff, he has executed a sale deed on 24.08.1998 in favour of defendant No.1. The sale deed was duly registered. Now the plaintiff claims that defendant No.1 verbally assured him that when the entire sale consideration will be paid only then defendant No.1 will take the actual physical possession of the suit property. Otherwise the property will remain in actual possession of plaintiff and proforma defendant in case he fails to make the payment of sale consideration and other incidental charges. It is further claimed that now defendant No.1 has become dishonest.

It is establish law that the oral agreement against the contents of the written document cannot be read into evidence. It is not denying fact that in the sale deed, it is recorded that the sale consideration has been paid and that the plaintiff transferred his ownership to defendant No.1. Plaintiff claims that he retained the possession of the house. Even if the possession is retained by the plaintiff in some capacity, it is merely as a licensee. Sale deed was executed on 24.08.1998 and on the grounds available in the year 1998 itself, the present suit was filed in the year 2013 to seek cancellation of the sale deed. Even though, in the application different ground was taken, the Court can always go through the plaint to examine whether it is barred by some law. As per Article 58

of the Limitation Act, the limitation to seek cancellation of sale deed is three years. Plaintiff was party to the sale deed. Therefore, limitation in this case expired in the year 2001, itself. Therefore, the suit is patently time barred.

It being so, there is no illegality or infirmity in the orders passed by Courts below.

Appeal is dismissed.

December 14, 2015
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(KULDIP SINGH)
JUDGE