

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

**Regular Second Appeal No.5703 of 2014 (O&M)**  
Date of decision: 24.08.2015

Bhajan Singh .... Appellant

versus

Jeet Singh .... Respondent

**CORAM: HON'BLE MR. JUSTICE K. KANNAN**

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Present: Mr.Avnish Mittal, Advocate,  
for the appellant.

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1. Whether reporters of local papers may be allowed to see the judgment ? **Yes.**
2. To be referred to the reporters or not ? **Yes.**
3. Whether the judgment should be reported in the digest ? **Yes.**

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**K.Kannan, J.** (Oral)

1. The appeal is for specific performance of an agreement of sale dated 20.11.2002 where the entire consideration of ₹1,40,000/- had been paid. The agreement was between brothers and although the entire consideration had been paid, the parties allowed for time for performance upto 30.12.2003. The property was delivered possession under the terms of the agreement.

2. It would appear that the defendant applied for partition of the properties including the suit property and when the plaintiff felt threatened through the action that his possession will be disturbed, took the said act of applying for partition as constituting a cause of action for institution of the suit. The court found the

agreement to be true and also found that the plaintiff had been ready and willing. However, it reasoned that since the property had been delivered possession, it had not been registered and, therefore, it could not be acted upon. The court also found that the suit was barred of limitation. These findings were affirmed in appeal.

3. I must hold that the findings of the courts below that the document required registration were making a wrong reading of Section 53-A of the Transfer of Property Act into Section 17 of the Registration Act. They operate in different fields. If the suit is brought claiming a right of part performance, the Amending Act 48 of 2001 to the Transfer of Property Act declares that such a right cannot be enforced otherwise than by a person who has obtained possession through a registered document. Section 17 of the Registration Act which provides for compulsory registration of documents does not require executory contracts to be registered. There are State legislations which have provided for such compulsory registration as such as in UP but such a State amendment has not been brought into the Act by the State of Punjab. There was no requirement of the registration of an agreement even if it refers to possession as having been delivered in order that the plaintiff seeks for enforcement of an agreement. The mistake is so fundamental, for, it omitted to note that Section 49 of the Registration Act itself makes possible for a person, who holds an

unregistered sale deed to apply for specific performance, treating an unregistered document for a collateral purpose for treating it as an agreement to convey. This is only to underscore the point that the registration of an agreement is unnecessary, if the prayer is for specific performance.

4. As regards the bar of limitation that was held against the plaintiff, I would hold that to be well founded, for, Article 54 of the Limitation Act which sets out a period of limitation for 3 years contemplates two contingencies: one, where there is a time stipulation for performance, the 3 years period commences from such period and where no time is stipulated, it shall be from the time of demand and refusal. Unless there is novation of contract where the parties had allowed for a further agreement altering the earlier stipulation and providing for a definite period of time, there was no scope for treating the threat of dispossession as constituting a cause of action for enforcement of relief of specific performance 3 years after the stipulated period. Novation was not even pleaded in a suit for reckoning a new period of limitation. On the other hand, the plaintiff himself assumed that threat of dispossession must be taken as giving a cause of action. Such a facility does not obtain by conduct of parties which is against law and against the express provisions of the period of limitation prescribed under the Limitation Act.

5. As per the averments pleaded, the plaintiff made such requests and the defendant kept delaying the matter. The request which is against the law is not a request which the court must countenance. The dismissal of the suit on the ground of limitation was, therefore, perfectly tenable and would require no interference in appeal. The second appeal is dismissed.

**(K.KANNAN)**  
**JUDGE**

24.08.2015  
sanjeev