

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

**RSA No. 6057 of 2014 (O&M)
Date of decision: 01.10.2015**

Himmat Singh	versus	... Appellant
Jatinder Kaur		 Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Vijay Rana, Advocate for the appellant.

K.Kannan, J.

CM No. 12158-C-2015

CM is allowed.

Appeal restored to file.

Main appeal

I asked the counsel if he was ready for arguments immediately and as he was willing to make his submissions, I have heard him and proceeded to pass the following order after hearing the counsel.

The suit for specific performance of an agreement of sale executed on 12.06.2000 was instituted more than 3 years after the time for performance. The suit was instituted in the year 2011 and the plaintiff had tried to explain the delay by the fact that the 3rd party to the agreement had filed a civil suit against yet another person under his vendor that there shall be no sale of the property. The civil suit appears to have granted an injunction against alienation and that order was entered in the revenue books. This was said to be justification for the plaintiff to claim the non-applicability of Article 54 of the Limitation Act.

Article 54 is unexceptional in the manner by which the law of limitation could apply. The period of 3 years shall commence from the date fixed for performance or where no date is fixed by the plaintiff for the notice of performance but it was refused. The period could be excluded only under certain circumstances which are set forth under

Section 12 to 15 of the Limitation Act. Section 12 deals with the exclusion of the day on which the period of limitation was to commence. The said provision has no applicability to our case. Section 13 excludes the time in cases where leave to sue or appeal as proper was applied for. That provision also cannot apply. Section 14 applies in cases where a person was prosecuting the case bona fide in Court without jurisdiction. That provision also cannot apply. Section 15 is more generic where it states that if the institution of suit is stayed by injunction or order, the time of the continuance of the injunction or the order will stand excluded. Section 15(1) shall be read in conjunction with the provisions of Indian Evidence Act for issue of whether the injunction obtained by 3rd party against yet another person can operate against the plaintiff be decided from what order or judgment can bind a person to take notice of such exclusion. Section 41 of the Evidence Act contemplates 4 jurisdictions as constituting a judgment in *rem*. The judgment passed by a competent Court in the exercise of probate (testamentary jurisdiction), matrimonial jurisdiction, admiralty jurisdiction and insolvency jurisdiction. These are the only four branches of law where a judgment obtained or any order passed will have to be respected by any person who is not even a party. In all other situations, a judgment is only a judgment in *personam* and will bind only the parties and the person claiming in the respective parties. There is no scope for exclusion as contemplated under Section 15 of the Limitation Act for taking notice of an order of injunction granted against the 3rd party to suit and who was not a privy to the transaction of agreement in favour of the plaintiff.

The only point of law involved in the suit is the point that is against the plaintiff. The regular second appeal is dismissed with above observations.

(K.KANNAN)
JUDGE

01.10.2015

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