

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

R.S.A.No.746 of 2014 (O&M)

Date of Decision: February 16, 2015

Ashok Kumar

...Appellant

Versus

Raj Rani & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

1. Whether Reporters of local papers 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?

Present: Mr.Gorakh Nath, Advocate,
for the appellant.

AMIT RAWAL, J. (Oral)

This is a Regular Second Appeal at the instance of the appellant-plaintiff against the judgment and decree of the trial Court dated 20.1.2011, whereby the suit for specific performance of agreement to sell dated 9.8.1995 was dismissed as it was barred by law of limitation.

The target date for the execution of the agreement to sell, aforementioned, was 9.8.1996, whereas the civil suit seeking specific performance of the agreement to sell was filed on 21.8.2000, i.e., beyond the date of three years from the target date. The plea of the appellant-plaintiff that on the target date, the respondent-defendants had filed a suit under Section 31 of the Punjab Relief of Indebtedness Act, 1934, which was dismissed on 15.5.1998 and thereafter they filed Civil Revision No.2676 of 1998, which was dismissed by this Court on 2.8.2000 and thereafter the

cause of action accrued to file the suit on 21.8.2000.

Though the trial Court had dismissed the suit of the appellant-plaintiff on the point of limitation, however, the Lower Appellate Court in an appeal filed by the appellant-plaintiff, by taking the aid of Section 14 of the Limitation Act, held that the suit of the appellant-plaintiff was not barred by limitation, however, dismissed the appeal on merits.

I am afraid, the aforementioned finding of the Lower Appellate Court by taking the aid of Section 14 of the Limitation Act is not only perverse but erroneous inasmuch as Section 14 of the Limitation Act does not apply to the original suit but only applies for the purpose of filing the appeals.

It is a matter of record that the suit, admittedly, was filed on 21.8.2000, beyond three years from the target date, i.e., 9.8.1996. No explanation has come forward in not filing the suit within time. The time spent in filing the litigation at the instance of the respondent-defendants would not cover up the delay for the purpose of filing the suit. Both the Courts below have, thus, rendered a finding of law and fact, based on the appreciation of oral and documentary evidence. No substantial question of law arises for determination of the present appeal.

Accordingly, the appeal is dismissed.

February 16, 2015
ramesh

(AMIT RAWAL)
JUDGE