

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CM Nos.4867 & 4868-CII of 2015 in
RA No.CR-43-CII of 2015 in
CR No.6397 of 2011
Date of decision:13.03.2015

Arun Sharma

....Petitioner

Versus

Usha Sundaram

.....Respondent

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr.Shekhar Verma, Advocate, for the applicant/petitioner.

G.S.Sandhawalia J.(Oral)

CM No.4868-CII of 2015

Application for condonation of delay of 21 days in filing the review application is allowed, in view of the averments made in the application, which are duly supported by an affidavit.

CM No.4867-CII of 2015

Application for placing on record additional document as Annexure A-1, is allowed, in view of the averments made in the application, which are duly supported by an affidavit. Said document is taken on record. Office to tag the same at appropriate place.

RA No.43-CII of 2015

Review application has been filed against the order dated 07.01.2015, wherein the revision petition was dismissed vide a detailed order, rejecting the claim of the petitioner that the Civil Court would have no jurisdiction, which has been upheld by this Court.

The petitioner had filed an application under Order 7 Rule 11 CPC.

29.09.2011, passed by the Civil Judge (Jr.Divn.), Gurgaon, on the ground that vide the notification dated 02.06.2008, the provisions of Haryana Municipal Corporation Act had been made applicable as the property in question had come within the urban area and the suit was, thus, held out to be not maintainable and ejectment could only be ordered under the Rent Act.

The ground for review is that as per Annexure A1, which is now placed on record, the sale deed itself was executed on 10.12.1996 and the suit was filed on 25.09.2007, after a period of 10 years and the respondent was not entitled for the benefit of exemption. The facts have been noticed in detail. The revision petition was dismissed on the strength of the facts which emanated out of the pleadings of the parties, at that stage and the specific case of the applicant, at that point of time, was whether the suit property having come in the Municipal limits on 02.06.2008, the Civil Court would lose jurisdiction. The matter regarding the sale deed in question was never subject matter of consideration before this Court and therefore, no error as such arises on the face of the judgment, which is now sought to be reviewed by way of a new ground which was never projected before the Trial Court.

It is apposite to note that vide the impugned order, two applications had been dismissed by the Trial Court. The second one was filed under Order 6 Rule 17 CPC, whereby the petitioner had sought to amend his written statement on the same ground that the suit property would not be liable to be adjudicated upon by the Civil Court. The said application was also dismissed but the said order was never challenged by filing any separate revision petition. Rather the petitioner, in para No.4 of the revision petition, reserved his right to challenge the same before this Court, separately. It is admitted matter of fact that the said order has not been challenged and thus, would now be patently time barred since the

In such circumstances, there is no scope for reviewing the order dated 07.01.2015 on the plea which is now sought to be raised.

Accordingly, the present review application is dismissed.

13.03.2015
sailesh

(G.S.SANDHAWALIA)
JUDGE