

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.302 of 2016 (O&M)
Date of Decision.18.01.2016

M/s Naturence Cosmetics Private Limited

.....Petitioner

Vs.

M/s A.M. Traders

.....Respondent

Present: Mr. Naveen S. Bhardwaj, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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?

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K. KANNAN J. (ORAL)

1. In a suit for rendition of accounts by the plaintiff that the defendant is still denying the payment for stocks supplied and that the defendant is liable to make some other payment, brought an amendment four years later that the specific amount is due from the defendant and he converted the suit for recovery of money. This, according to the defendant, was bringing an amendment beyond the time of limitation and hence, ought not to be permitted.

2. It is mixed question of fact of whether a suit for accounting which is already made by the plaintiff was on the plea that the plaintiff enjoyed some credit with the defendant or the defendant was liable to make some payment which was put in the shape of suit for accounting and if he was legitimizing his claim by specific amount by an amendment, the suit must be seen as merely continuance of a prayer that was already contained. It is quite different if there was no credits

and debits. In such an event whether the suit for recovery will be barred by limitation will depend on how the nature of transaction gone between the parties and it will be premature to throw out the application for amendment on the issue at the threshold. I will maintain the order passed already but will allow for the defendant to bring an amendment to the written statement or an additional pleading contemplated under Order 8 Rule 9 CPC and it would be possible for the defendant to take a plea that the plaintiff's claim is barred by limitation and if such contention is taken, an issue ought to be framed therefor and the Court will render adjudication on such objection as well.

3. The revision petition is disposed of on the above terms.

(K. KANNAN)
JUDGE

January 18, 2016
Pankaj*