229.

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No.5624 of 2015
Date of decision:08.02.2016

Bajinder @ Chhota ... Petitioner

versus

Parmal Singh .... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Parminder Singh, Advocate, for the petitioner.

None for the respondent.

K.Kannan, J. *(Oral)*

1. The respondent has been served through wife. Service deemed sufficient. None appears.

2. For a promissory note said to have been executed on 18.05.2011, the suit was instituted on 16.10.2014, which was clearly barred by limitation. In every suit which is instituted beyond the period of limitation, on the face of it, the rules of pleading under Order 7 Rule 6 CPC requires a claim of exemption from any limitation law ought to be stated, if the plaintiff was pleading for a larger period for institution than what the Limitation Act expressly provided. It has been so held by the Supreme Court in ***Church of Christ Charitable Trust & Educational Charitable Society Versus***

***Ponniamman Educational Trust-(2012) 8 SCC 706*.** Under Article 35 of the Limitation Act, a suit for recovery of money would require to be filed within a period of 3 years from the date of execution of the promissory note. The suit was ex facie barred by law. I have gone through the averments in the plaint and there is no explanation given as to how the suit was being filed, although beyond a period of 3 years from the time of alleged execution of the promissory note. The suit ought to have been rejected as barred by law in the manner contemplated under Order 7 Rule 11 CPC.

3. The impugned order is set aside and the revision petition is allowed. The plaint is ordered to be rejected.

(K.KANNAN)
JUDGE

08.02.2016
sanjeev