

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

CR No. 7657 of 2014 (O&M)
Date of Decision: March 4, 2016

Bhupinder Singh

...Petitioner

Versus

Sukhdev Singh and others

...Respondents

ORAM:- HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. HS Bhullar, Advocate,
for the petitioner.

Mr. Sanjeev Kumar Arora, Advocate,
for respondent No.1.

K. KANNAN, J. (Oral)

1. The plaintiff, who had an agreement from the 1st defendant in his favour along with the 2nd defendant, was successful in his suit in part only. In the appeal filed, the first appellate court directed framing of fresh issues and also directed fresh trial. After remand, the 2nd defendant, who had been cited as proforma defendant and who held no interest adverse to the plaintiff, sought for transposition. The plaintiff did not have any objection. The 1st defendant vendor objected to the same which prevailed.

2. Admittedly, the agreement is in favour of the plaintiff and the 2nd defendant. They have a common right to prosecute. If the suit was filed not only for himself but also for the 2nd defendant to secure a right as the document contained, then a transposition of the 2nd defendant cannot cause any prejudice. If the 2nd defendant's right had not been given up by the plaintiff or the 2nd defendant himself in the course of proceedings joining together after remand can cause no prejudice for the defendants. The only

objection raised by the counsel for the respondent is that the application was being filed after merely 11 years of institution of the suit. There is no period of limitation for transposition so long as no part of the claim has been waived off in earlier proceedings and there is no afresh assertion to a right of what has already been given up.

3. The impugned order is set aside and the revision is allowed.

March 4, 2016
prem

(K.KANNAN)
JUDGE