

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

RSA No.6221 of 2015 (O&M)
Date of Decision.11.07.2016

Ram Kumar and another

.....Appellants

Vs.

Surjit Singh and another

.....Respondents

Present: Mr. Arvind Singh, Advocate
for the appellants.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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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AMIT RAWAL J. (ORAL)

The appellants-plaintiffs are aggrieved of the concurrent findings of fact whereby claim in the suit challenging the sale deed 14.10.2005 in favour of defendant No.1 has been declined.

Mr. Arvind Singh, Advocate appearing for the appellants submits that both the courts below have erroneously ousted the appellants-plaintiffs on the ground that the suit was hopelessly barred by law of limitation whereas there has been an apparent misreading of provisions of Article 59 of the Limitation Act. The injunction suit at the instance of the respondents-defendants was instituted on 09.06.2012 whereby they had sought injunction on the basis of the sale deed. In fact, the appellants-plaintiffs had intended to sell some other piece of land than the one referred to in the sale deed *ibid*. In these circumstance, the cause of action arose and the suit was filed on 16.07.2012 with promptitude and thus, limitation would not come in the way. The aforementioned injunction suit by respondents-

defendants has also been dismissed by both the courts below and there is no challenge after that. The judgment and decree passed in the injunction suit has been proved as Ex.P1. The Courts below, though, found the appellants-plaintiffs to be in possession but ousted on the ground mentioned above and thus, the counsel for the appellants urges this Court to formulate the substantial questions of law as carved out in the memorandum of appeal.

I have heard the learned counsel for the appellants, appraised the paper book and of the view that assuming for the sake of arguments, though not admitted, that the suit was treated to be filed within time from the plain reading of the language of Article 59, which reads thus:-

Description of suits	Period of limitation	Time from which period begins to run
59. To cancel or set aside an instrument or decree or for the rescission of a contract.	Three years	When the facts entitling the plaintiff to have the instrument or decree cancelled or set aside or the contract rescinded first become known to him.

The appellant-plaintiffs have failed to prove the ingredients of Order 6 Rule 4 of the Civil Procedure Code. A registered document carries even presumption of truth, if not challenged within the prescribed period of limitation, it is hard to believe that the appellants-plaintiffs were not aware of the particulars of the land agreed to be sold as they stated to have received the sale consideration. Even in the injunction suit, there is no finding with regard to ownership of the property and the focus of the Court was only on the injunction part. Be that as it may, the fact remains that the rejection of the suit was on the ground of limitation. I am of the view that the ingredients of Order 6 Rule 4 CPC have also not been proved and in the absence of the same, the Courts below rightly did not entertain claim of the

appellants-plaintiffs.

I do not find any illegality and perversity in the judgments and decrees passed by both the courts below, much less, no substantial question of law arises for consideration in the second appeal.

The second appeal is dismissed.

(AMIT RAWAL)
JUDGE

July 11, 2016
Pankaj*