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M/s World Class Enterprises and another

....petitioners

Chaman Lal

.....respondent

Present: Mr.Ashish Gupta, Advocate
for the petitioners

ARUN PALLI, J. (ORAL):

Application is allowed as prayed for.

Vide order, being assailed, dated 24.10.2016, rendered by Civil Judge(Sr.Divn.), Rajpura, application moved by the petitioners-defendants for rejection of the plaint has since been dismissed.

The facts that are required to be noticed are limited.

In a suit filed by the respondent-plaintiff, he has prayed for a money decree for ₹ 10,80,000/-, with interest. The case of the defendants is that suit of the plaintiff is solely predicated upon a cheque bearing No.132013 dated 20.12.2012, which was alleged to have been issued by the defendants, and, was dishonoured on 21.12.2012. And, for, the limitation to file a suit to recover the alleged amount was three years, plaintiff, at best, could file the suit by 20.12.2015. Whereas, the present suit was instituted on 06.01.2016, which was apparently barred by time.

As apposed to this, the case set out by the plaintiff is that after the cheque was dishonoured, vide a legal notice dated 09.01.2013, the defendants were required to make good the payment within 15 days from the receipt of the said notice. And, it could be safely presumed that the defendants received the said notice within three days from the date it was issued. Thus, the plaintiff could filed the suit by 27.01.2016, whereas the present suit was instituted on 06.01.2016, which was well within time.

I have heard learned counsel for the petitioners and perused the records.

In the wake of the respective pleadings of the parties, the issue; Whether the suit filed by the respondents is within limitation or not, is a mixed question of law and facts, which indeed can be determined only after the parties would lead their respective evidence. Further, the plaint could be rejected, if from the averments set out in the plaint alone, the suit could be shown to have been barred by time. Such is not the position in the matter in hand.

Learned counsel for the petitioner could not point out as to how the order being assailed either suffers from any material illegality or glaring infirmities.

The petition being devoid of merit is accordingly dismissed.

January 30, 2017

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(ARUN PALLI)
JUDGE

Whether speaking/reasoned

Yes/No.

Whether reportable-

Yes/No