

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

Civil Revision No.5439 of 2016 (O&M)
Date of decision: April 27, 2017

M/s Ashoka Rice Dal Oil &
General Mills & others

...Petitioners

Versus

Arvinderpal Singh & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Inder Bhushan Bhandari, Advocate for the petitioners.
Mr. D.P. Gupta, Advocate for the respondents.

Rajan Gupta, J.(oral)

Present revision petition is directed against the order dated 24.05.2016, passed by the trial court, whereby application moved by defendants for treating issue No.4-A as preliminary issue, has been rejected.

Order has been challenged on the ground that suit is barred by limitation. This issue needs to be decided as a preliminary issue. Mr. Bhandari has urged that when a case can be decided on a preliminary issue, requirement of going into merits is obviated. Prayer has been opposed by counsel representing the respondents. According to him, suit has made considerable headway. It is at a stage when last opportunity has been granted to the defendants to lead their evidence. Thus, no ground for interference is made out.

I have heard learned counsel for the parties and examined their respective pleas.

It appears, a suit for recovery of Rs.68,00,000/- along with 12%

interest was filed against the defendants. During the proceedings, issue No.4-A was framed as to whether suit was barred by limitation. Thereafter, plaintiffs led their evidence in affirmative. After conclusion thereof, defendants were given opportunity to adduce their evidence. At present last opportunity has been granted to the defendants to conclude their evidence. Instant application was moved when defendants' evidence was going on to treat issue No.4-A as preliminary issue. Plea has been rejected by the court below on the ground that issue of limitation was a mixed question of law and facts, thus, same would be decided along with the suit. I find no infirmity with the order. It is inexplicable why instant application had been moved by the petitioners when the suit is nearing culmination. It appears to be purely a delaying tactic. The revision petition is without any merit and is hereby dismissed.

(RAJAN GUPTA)
JUDGE

April 27, 2017
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No