

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

CR No.5817 of 2017 (O&M)  
Date of decision : 31.08.2017

Banu Ram and another

...Petitioners

Versus

Mohinder Singh and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Jaideep Verma, Advocate for the petitioners.

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**ANIL KSHETARPAL, J. (ORAL)**

The defendants have challenged the orders dated 03.08.2017 passed by the Additional Civil Judge (Senior Division) Rupnagar in a civil suit.

Learned trial Court has permitted the plaintiff to file a plaint duly signed and verified by the plaintiff.

Plaintiff originally had filed a suit through his attorney. Plaintiff is a Non-Resident Indian residing at United Kingdom. The defendants had filed an application that the plaint has not been filed by a properly constituted attorney and, therefore, the suit is not maintainable. Plaintiff came to India and executed a fresh power of attorney in favour of his mother-in-law namely Jasbir Kaur. In these circumstances, plaintiff moved an application for taking up the case and permission to file fresh plaint on the basis of the subsequently executed power of attorney in favour of Jasbir Kaur, his mother-in-law. Learned Court allowed such an application.

On the same day, learned Court further dismissed the application

filed by the defendants for dismissal of the suit as suit was not instituted by a properly constituted attorney.

Learned counsel for the petitioners has submitted that the fresh plaint is time barred and cannot be permitted to be filed because the original suit was not properly instituted.

I have considered the submission of learned counsel and with his able assistance gone through the record of the present case. Plaintiff would be at liberty to take all possible defences including the suit being time barred at an appropriate stage. At this stage, only the fresh plaint has been allowed to be filed as the defendants had objected to the previously filed plaint on the ground that it was not filed by a properly constituted attorney.

Dispute with regard to the fresh plaint being time barred cannot be adjudicated upon at this stage.

Still further, learned Court has only allowed a irregularity to be rectified. It was the defendants who had filed the application for dismissal of the suit on the ground that the plaint is not signed and filed by a properly constituted attorney. This irregularity has been rectified by filing the fresh plaint.

In view thereof, I do not find any error in the orders passed by the learned Additional Civil Judge (Senior Division) Rupnagar dated 03.08.2017.

Revision petition is dismissed.

**31.08.2017**

*Pawan*

**(ANIL KSHETARPAL)  
JUDGE**

**Whether speaking/reasoned:-**

**Yes/No**

**Whether reportable:-**

**Yes/No**