

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

**CR No.7027 of 2017
Date of Decision:10.10.2017**

Deepak Kumar and another

...Petitioners

Versus

T.S.Trewn and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr.K.S.Ahluwalia, Advocate for the petitioner.

RAMESHWAR SINGH MALIK, J. (Oral)

Feeling aggrieved against the order dated (Annexure P-1) passed by the learned trial court, whereby application of the defendants under Order 7 Rule 11 of the Code of Civil Procedure, seeking dismissal of the plaint on account of limitation alone was dismissed, defendants have approached this Court by way of present civil revision petition under Article 227 of the Constitution of India, for setting aside the impugned order.

Heard learned counsel for the petitioners.

A bare perusal of the impugned order passed by the learned trial court particularly para 3 thereof will make it crystal clear that the learned trial court was well within its jurisdiction to pass the impugned order. The impugned order has not been found suffering from any patent illegality. The reason to say so is that the learned trial court has rightly observed that once the transactions between the parties have gone up to

October 2014, the suit cannot be said to be barred by limitation as the suit

for recovery came to be filed in the month of April 2017.

Learned counsel for the petitioners vehemently contended that there was no scope of extending the limitation at the hands of plaintiff, because the said transaction has nothing to do between the parties. Thus, it is crystal clear that plaint of the plaintiff cannot be rejected on the ground of limitation at this stage and the plaintiff must be granted an opportunity to prove his case by leading his evidence. That is what has been held by the learned trial court, while passing the impugned order and the same deserves to be upheld.

Powers under Order 7 Rule 11 of the Code of Civil Procedure are not to be exercised by the court lightly. In fact, these powers are to be exercised sparingly, because it would have far reaching consequences. Further, question of limitation being a mixed question of law and fact, possibility cannot be ruled out that the plaintiff might be in a position to bring his suit for recovery well within its limitation. In such a situation, it can be safely concluded that the learned trial court committed no error of law, while passing the impugned order and the same deserves to be upheld, for this reason also.

During the course of hearing, learned counsel for the petitioners could not point out any patent illegality or perversity in the impugned order, which may warrant interference, at the hands of this Court, while exercising its revisional jurisdiction under Article 227 of the Constitution of India. The impugned order is supported by sound reasons, because of which no fault can be found with it and the same deserves to be

upheld, for this reason as well.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the instant civil revision petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, with the above-said observations made, the present civil revision petition stands dismissed, however, with no order as to costs.

10.10.2017

mks

(RAMESHWAR SINGH MALIK)

JUDGE

Whether Speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No