

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

CR No.8291 of 2017
Date of decision : 28.11.2017

Anil Sharma

...Petitioner

Versus

Satnam Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rajeev Duggal, Advocate for the petitioner.

ANIL KSHETARPAL, J. (ORAL)

The defendant-petitioner is in revision petition against the order dismissing the application filed under Order 7 Rule 11 CPC for rejection of the plaint.

The plaintiff-respondent had filed a suit for specific performance of the agreement to sell dated 25.08.2005. During the pendency of the suit, the defendant filed an application under Order 7 Rule 11 CPC for rejection of the plaint by stating as under:-

1. The plaint does not disclose any cause of action.
2. The suit is barred by limitation.

Learned trial Court after appreciating the facts available on the file dismissed the application.

I have heard the learned counsel for the defendant-petitioner at length.

The plaintiff in the plaint had pleaded in para No.19 as under:-

“19. That the cause of action arose to the plaintiff initially on 31.12.2005 and 19.6.2006 when the defendant failed to execute the sale deed on the basis of transfer of share in his

name and obtaining N.O.C. and sale consideration was Rs.15 lac and not Rs.35 lac. The cause of action further arose when despite repeated visits/requests/meetings with the defendant, he failed to perform his part of contract. The cause of action further arose in March, 2014 when the plaintiff received summons from the court in a case filed by Shri Rajneek Bhatla in respect of house in question. The cause of action further arose on 9.6.2014 when despite receipt of legal notice, the defendant did not respond and the same is still continuing as the defendant has not performed his part of contract.”

In view of these assertions, it is not safe to conclude that the plaintiff had no cause of action to file the suit.

Second argument of the learned counsel is that the suit filed by the plaintiff is prima facie barred by limitation.

In the considered opinion of this Court, such plea can only be examined after the parties have led their evidence. It is admitted fact that on the agreement to sell dated 25.08.2005 which is alleged to be a receipt of token money, no date for execution of the sale deed was fixed.

In these circumstances, this Court does not find any good ground to interfere with the impugned order passed by the trial Court.

The petitioner would be at liberty to request the learned trial Court to frame a preliminary issue on the question of limitation, if so advised.

In view of the above, the present revision petition is disposed of.

28.11.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No