

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

CR No.8398 of 2017
Date of decision : 30.11.2017

Kamaljit Singh

...Petitioner

Versus

Amandeep Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Naveen Sharma, Advocate for the petitioner.

ANIL KSHETARPAL, J. (ORAL)

Defendant No.2-petitioner is in revision petition against the order dismissing the application under Order 7 Rule 11 CPC filed by defendant No.2.

An application under Order 7 Rule 11 CPC was filed on three following grounds:-

1. Deficient Court fees.
2. Suit being barred by limitation.
3. No cause of action.

Learned trial Court after considering all aspects of the matter, dismissed the application by a detailed order.

Learned counsel for the petitioner has submitted that from the reading of the plaint, it is clear that the suit filed by the plaintiff is barred by time. He has further submitted that in para No.13 of the plaint, it has been

pleaded that the cause of action arose to the plaintiff against the defendants for filing the present suit on 27.12.2010 when the alleged transfer deed was executed and registered.

It may be noticed that Smt. Rajinder Kaur wife of Surinder Singh was owner of the property. She executed an attorney in favour of Surinder Singh-defendant No.1. It is the allegation in the plaint that Lt. Smt. Rajinder Kaur is missing since 01.06.2009. The transfer deed was executed by an attorney on 27.12.2010. Taking into consideration these facts, question of limitation would require the Court to consider the evidence led by the parties. The plaint cannot be ordered to be rejected at the outset.

The question of limitation is a mixed question of law and fact and such question cannot be determined without permitting the parties to lead evidence.

Taking into consideration the aforesaid facts, this Court does not find any good ground to interfere with the impugned order passed by the trial Court.

Revision petition is dismissed.

30.11.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No