IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.833 of 2017(O&M)
Date of Order: 14.09.2017

Sagar and others

..Appellants

Versus

Ridhi Sidhi Alloys Pvt. Ltd. and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. S.S.Dinarpur, Advocate,
for the appellants.

ANIL KSHETARPAL, J (Oral)

Plaintiffs-appellants are in regular second appeal against concurrent findings of fact arrived at by the Courts below.

Plaintiffs filed a suit for possession by way of pre-emption while asserting that they have a superior right of pre-emption under the Punjab Pre-emption Act, 1913 on the ground that they were tenants on the land. Sale deed in favour of defendant no.1 was executed and registered by the owner on 11.06.2007. They filed a suit on 06.12.2008.

Both the Courts have dismissed the suit on the ground that suit is barred by limitation having been filed more than 1 year after the date of registration of the sale deed.

Learned counsel for the appellants has submitted that the Courts below have wrongly taken the limitation to be one year from the date of registration of the sale deed. He has submitted that as per Section 30 of the Punjab Pre-emption Act, 1913, the period of limitation would start when mutation is sanctioned and not from the date of registration of the sale deed.

I have considered the submission of counsel for the appellants.

Before dilating upon the arguments, it would be appropriate to notice statutory provision. Section 30 of the Punjab Pre-emption Act, 1913 is reproduced as under:-

> *"30. **Limitation.-** In any case not provided for by Article 10 of the Second Schedule of the Indian Limitation Act, 1908, the period of limitation in a suit to enforce a right of pre-emption under the provisions of this Act shall, notwithstanding anything in Article 120 of the said schedule, be one year - (I) in the case of a -sale of agricultural land or of village immovable property; from the date of the attestation (if any) of the sale by a Revenue Officer having jurisdiction in the register of of mutations maintained under the Punjab Land Revenue Act, 1887; or*
>
> *from the date of which the vendee takes under the sale physical possession of any part of such land or property; whichever date shall be the earlier;*
>
> *(2) in the case of a foreclosure of the right to redeem village immovable property or urban immovable property;*
>
> *from the date on which the title of the mortgagee to the property becomes absolute;*
>
> *(3) in the case of sale of urban immovable property, from the date on which the vendee takes under the sale physical possession of any part of the property."*

A careful reading of Section 30 of the Act, it is clear that in case of sale of an agricultural land or of village immovable property, the period of one year starts from the date of the attestation of the sale deed by a revenue officer. Learned counsel for the appellants is wanting to read sub-section (i) in the manner that the limitation period began to run from the date of attestation of the mutation. In my considered view, this is not the correct interpretation. It is clearly provided that date of attestation of the sale deed by a revenue officer having jurisdiction in the register of mutations maintained under Punjab Land Revenue Act, 1887 shall be the starting point of the limitation. It is nowhere provided that sanction of the mutation would be the starting point of the limitation.

Section 30 of the Punjab Pre-emption Act, 1913, makes a reference to Article 10 of the Second Schedule of the Indian Limitation Act, 1908. It further makes a reference to Article 120 of the said Schedule. Article 10 and Article 120 of the said Schedule are extracted as under:-

Article 10-

To enforce a right of pre-emption, whether the right is founded on law, or general usage, or on special contract	*One year*	*When the purchaser takes under the sale sought to be impeached, physical possession of the whole of the property sold, or, where the subject of the sale does not admit of physical possession when the instrument of sale is registered.*

Article 120-

Suit for which no period of limitation is provided elsewh-ere in this Schedule.	*Six years*	*When the right to sue accrues.*

It is clear from the reading of Section 30 of the Act that sub-section(i) of Section 30 would come into operation in case the suit is not covered by Article 10 of the Second Schedule of Indian Limitation Act, 1908. It is admitted case of the appellant that Article 10 of the Second Schedule of Indian Limitation Act, 1908 is not applicable.

Hence, it is clear that in case of sale of an agricultural land or of village immovable property, the date of attestation of the sale by a revenue officer shall be the date from which the limitation would begin to run.

Both the Courts below have held that the suit having been filed after a period of one year from the date of registration of the sale in favour of defendant no.1, hence, the suit is barred by limitation.

For the reasons recorded hereinabove, I do not find any substance in the arguments of learned counsel for the appellants. There is no error in the conclusion arrived at by the Courts below. The regular second appeal is dismissed.

September 14, 2017 **(ANIL KSHETARPAL)**
nt **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No