

Civil Revision No.1073 of 2017 (O&M)

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

Civil Revision No.1073 of 2017 (O&M)
Date of decision: 18.01.2018

Hardei and another

.....Petitioners

versus

Satbir

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Vivek Gupta, Advocate, for
Mr. Parshant Sethi, Advocate, for the petitioners.

RAMENDRA JAIN, J. (ORAL)

In compliance with order the order passed by this Court on 08.01.2018, original receipt for an amount of ₹ 5,000/- deposited as costs with the Haryana State Legal Services Authority, produced in Court today is taken on record.

By way of instant revision petition under Article 227 of the Constitution of India defendants have impugned the order of the trial Court dated 21.01.2017 (Annexure P-3), whereby their application for deleting issue No.12 and correction of issue No.13 or in the alternative framing of additional issues, has been dismissed.

In nutshell, in a suit for declaration and injunction claiming ownership over house bearing No.275 situated at Subhash Nagar, Hisar, on

the basis of 'will' dated 25.03.2009 allegedly executed by his father late

Dhan Singh, respondent-plaintiff prayed for declaring petitioner No.1-

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defendant as “*benami*” owner of the same and further that sale deed dated 01.08.2012 executed by her in favour of petitioner No.2-defendant as null and void.

Upon notice, petitioners-defendant filed written statement-cum-counter-claim denying all the assertions of the respondent-plaintiff and claimed their title and actual possession over the house in dispute.

Upon an application of the petitioners-defendant for reframing of issues pertaining to the counter-claim, the trial Court vide order dated 18.07.2016 (Annexure P-1) added three new issues placing burden of the same upon the petitioners. Consequently, petitioners-defendant again moved application for deleting issue No.12 and for correction of issue No.13 or to frame some more issues, which has been dismissed by the trial Court vide order of even date.

Learned counsel for the petitioners submitted that issues No.4 and 12 are same touching the point of limitation of filing the suit, therefore, one of them has to be deleted. He further contends that since in their counter-claim the petitioners have set up their claim over the house in dispute on the basis of natural succession and sale deed, therefore, the trial Court ought to have framed issue on this point for effective adjudication of the case.

Having given considerable thought to the submissions made by learned counsel for the petitioners and going through the impugned order, it is evident that out of issues No.4 and 12 one has to be deleted being related to limitation for filing the suit. Therefore, issue No.4 is ordered to be deleted inasmuch as the petitioners had raised the point of limitation, therefore, the burden is upon them to prove the same. The trial Court has

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rightly placed the burden of issue No.12 upon the petitioners. Issues No.13 and 14 are since based on the pleadings and counter-claim of the petitioners, therefore, they are not required to be touched.

Petition is disposed of accordingly.

January 18, 2018
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned Yes/No

Whether reportable Yes/No.