

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

133

CR No.2970 of 2018 (O & M)
Date of Decision:30.07.2018

Salim Ahmed

...Petitioner

Versus

Budhan Khan

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ashish Gupta, Advocate
for the petitioner.

ANIL KSHETARPAL, J.(Oral)

Defendant-petitioner is in the revision petition against the order passed by the learned trial Court refusing to reject the plaint under Order 7 Rule 11 of the Code of Civil Procedure.

Defendant-petitioner prays that the plaint be rejected on the ground that suit is barred by limitation. For that purpose, learned counsel for the petitioner has referred to the assertions made in Para 3 of the plaint wherein it has been pleaded that the plaintiff and his wife went to the house of the defendant but every time defendant's wife has put off the matter on the ground that her husband has gone to Saudi Arabia and whenever he would come back, he would execute the sale deed.

Learned counsel for the petitioner from these assertions wishes to impress upon this Court that the refusal to execute the sale deed should be taken to be in the year 2008 and, therefore, the suit filed in 2017 was barred by limitation.

This Court has gone through the plaint, it is specifically

pleaded in the plaint that the defendant while sending reply to the notice dated 14.11.2017 other party had refused to execute the sale deed. The assertions made in Para 3 of the plaint does not amount to refusal to execute the sale deed. It has only been pleaded that wife of the defendant has been putting off the matter on the ground that her husband has gone to Saudi Arabia and whenever he would come back, he would execute the sale deed.

It is well settled that as per Order 7 Rule 11 of the Code of Civil Procedure, only the assertions made in the plaint are to be seen. The suit whether it is barred by limitation or not would depend upon the evidence to be led by the parties.

In the present case, the plaintiff has specifically asserted that refusal was made only on 14.11.2017. In such circumstances, there is no ground to interfere.

Revision petition is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the above said judgment.

30.07.2018

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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No