

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.5434 of 2015 (O&M)

Date of decision:01.11.2018

Raj Singh

... Petitioner

Vs.

Ram Piari and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Sukhmeet Singh, Advocate
for the petitioner.

Mr. Raman Goklaney, Advocate
for respondents No.1 and 2.

AMIT RAWAL J. (Oral)

The present revision petition is directed against the impugned order dated 07.01.2015 (Annexure P-4), whereby, an application filed by the petitioner-defendant No.6 for rejection of the plaint has been dismissed as the claim in a suit for possession of land measuring 02 kanals *prima facie* was found to be barred by law of limitation.

Mr. Sukhmeet Singh, learned counsel for the petitioner submitted that suit was filed in the year 2011 claiming specific performance of the agreement to sell dated 13.11.2003. Time was an essence of the agreement as the stipulated date for execution and registration of the sale deed was 20.05.2004. The Court below ought to have pondered upon such issue, therefore, the order under challenge is without jurisdiction.

Mr. Raman Goklaney, learned counsel for respondent No.1 and

2 submitted that time was not an essence of the agreement. The point of limitation being mixed question of facts and law could not be decided summarily. He is not averse that if appropriate direction is issued to the trial Court to expedite the trial.

I have heard the learned counsel for the parties, appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Sukhmeet Singh, for, it is yet to be seen whether the time was an essence of the agreement or not. Both the parties can press the issue of limitation and lead evidence.

The order under challenge is upheld. The revision petition is disposed of with a direction to the trial Court to expedite the trial of the suit by affording 4-4 effective opportunities to the parties to the lis after completion of the pleadings, admission and denial.

(AMIT RAWAL)
JUDGE

November 01, 2018
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No