

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

**CR No.5924 of 2016(O&M)
Date of Decision: 16.10.2018**

Dev Raj Aggarwal

.....Petitioner

Versus

The Union of India and another

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. Vishal Aggarwal, Advocate
for the petitioner.

RAJ MOHAN SINGH, J.

[1]. Plaintiff has preferred this revision petition against the judgments and decrees passed by the Courts below on the premise that the amount involved is less than Rs.25,000/-, therefore, the revision petition is maintainable.

[2]. Plaintiff filed a suit for declaration to the effect that plaintiff being class I heir of deceased Smt. Shanti Devi widow of Late Shri Banarsi Dass Aggarwal was entitled to the amount of National Saving Certificates with interest till date and for mandatory injunction, directing the defendants to release the

amount of aforesaid National Saving Certificates to the plaintiff.

[3]. Smt. Shanti Devi widow of Late Shri Banarsi Dass Aggarwal was mother of the plaintiff. She had purchased the National Saving Certificates from the Postmaster, Pathankot which were seven in number, details of which are being given hereasunder:-

<i>Sr. No.</i>	<i>Number</i>	<i>Date</i>	<i>Amount</i>
1	419316	05/12/1970	Rs.1000-00
2	419317	05/12/1970	Rs.1000-00
3	419892	13/11/1971	Rs.1000-00
4	419893	13/11/1971	Rs.1000-00
5	419901	04/12/1972	Rs.1000-00
6	419902	04/12/1972	Rs.1000-00
7	419903	04/12/1972	Rs.1000-00

[4]. Plaintiff alleged that despite representations made by the plaintiff to the authorities, no action was taken.

[5]. The suit was contested by defendants No.1 and 2 on number of grounds including non-maintainability of the suit as per Section 14 of the Saving's Bank Act, 1873. Defendants also stated that relevant record for which plaintiff sought permanent injunction already stood weeded out in view of Appendix VIII of PO SB Manual Volume II. The period of preservation was only 18 months in case of saving certificate and in case of application for purchase of NSC was 6 years period of maturity. The period of preservation in case of claim of postal certificate

was 3 years after payment. For registration of nomination NSC, the period of preservation was 2 years and in case of stock registered certificate, the period of preservation was 10 years. On the aforesaid premise, the suit was claimed to be barred by limitation.

[6]. Evidently, as per the conceded position, the plaintiff had made first complaint in the year 1987 and onwards. Repeated complaints/representations will not prove any fresh cause of action. As per evidence led by the parties, Smt. Shanti Devi purchased 7 years NSC on 15.12.1970, then on 13.11.1971 and then on 04.12.1972 for Rs.1000/- per NSC. Smt. Shanti Devi received payment regarding above said 7 NSCs on 07.01.1983. After payment made to Smt. Shanti Devi, the record was weeded out as per norms of the Department. The period of preservation of 7 NSCs was 18 years from the date of issue. Admittedly, NSCs were issued in the year 1970, 1971 and 1972. Concededly, the complaint was made by the plaintiff in the year 1987 or thereafter. No evidence was led by the plaintiff to prove that the complaint was made in the year 1987. Plaintiff was not in possession of any original NSC. The loss of original NSC after the death of Smt. Shanti Devi could not be established on record, nor any report to that effect was ever lodged by the plaintiff to the police.

[7]. As per stand taken by the defendants in respect of weeding out of the record, both the Courts below have concluded under issues No.1 and 2 and decide the same against the plaintiff. Since the plaintiff could not prove the original NSCs on record, nor he could establish the factum of loss, therefore, the plaintiff could not prove the existence of such NSCs and the Courts below have found that the suit was not maintainable as the plaintiff had no cause of action. Issues No.3 and 6 were accordingly decided. The suit was dismissed on factual parameters and was found to be belatedly filed. Original National Saving Certificates were not brought on record. Even though, the plaintiff came to know about loss of original National Saving Certificates immediately after the death of his mother, but he never filed any complaint to the police from 1983 to 1986. The original NSCs were expected to be in the possession of the plaintiff and his mother. Documents were not brought on record in accordance with law. As per stand of the defendants, documents had already been encashed and stood discharged on 07.01.1983 during lifetime of the mother of the plaintiff. Original certificates could not be proved by the plaintiff because they were destroyed. As per Appendix-5, the procedure of preservation of saving certificate was given. As per Clause 14, NSCs of 7 years term are to be preserved only for 18 years

from the date of issue. The last certificate was issued on 04.12.1972. Defendants were required to be preserved the same upto the year 1979.

[8]. In view of aforesaid position, defendants were justified in weeding out the record after expiry of the period of preservation. The findings of facts have been recorded by the Courts below on this pertinent aspect of the case which in my considered opinion cannot be faulted with. Even otherwise, as per valuation shown in the plaint, the plaintiff has not come with clear valuation and assessment of interest based on principal. No interference can be made in the revisional jurisdiction of this Court, particularly when there is no evidence worth acceptance on record. There is no error in the impugned judgments and decrees passed by the Courts below, nor any question of law worth consideration is involved in the present revision petition. The findings of fact recorded by the Courts below are based on lawful appreciation of evidence which cannot be held to be perverse or the result of misreading of evidence in any manner. This revision petition is found to be totally devoid of merits and the same is accordingly dismissed in *limine*.

[9]. Since the revision petition has been dismissed on merits, therefore, there is no necessity to pass any order in the miscellaneous applications. The same are accordingly disposed

of.

October 16, 2018

Prince

(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No