

Present petitioner is plaintiff before the trial Court and has filed a suit for recovery of Rs. 7,90,000/- on the basis of pronote and receipt dated 10.2.2010, executed by Darshan Singh, father of defendants No. 1 and 2 and husband of defendant No. 3. The suit was instituted on 28.7.2012. In the said case, written statement was filed by defendants on 16.3.2013 in which objection was taken regarding non joinder of necessary parties. When case was at the stage of recording evidence of plaintiff, an application was filed on 9.3.2016, stating that Karamjit Singh, another son of Darshan Singh is to be added as co-defendant for the purpose of recovery. Therefore, he should be added as co-defendant. The trial Court has taken

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the view that claim against Karamjit Singh has become time barred. The note was also taken regarding non joinder of necessary parties i.e. other legal heirs of Darshan Singh.

I am of the view that pronote is of dated 10.2.2010. The limitation for filing the suit for recovery was three years which expired on 9.2.2013. The suit was instituted on 28.7.2012 against legal heirs of Darshan Singh apparently on the ground that they have inherited the estate of Darshan Singh and they are liable to pay the debt. At the initial stage, defendants filed written statement on 16.3.2013, stating that other legal heir has not been made party. However, no action was taken. Therefore, from the date of pronote, the claim against other legal heir Karamjit Singh became time barred on 9.2.2013. Even from the date of institution of suit, application was filed after more than three years and now, the claim has become time barred.

The learned counsel for petitioner has relied upon authority of this Court in *Rajeev Sharma and others Versus M/s Vivek Prints*, 2017 (5) RCR (Civil) 59. The perusal of authority shows that it was suit for correction of date mentioned in the sale deed which stands at different footing from present case.

The learned counsel for petitioner has further relied upon another authority of this Court in *Joginder Singh and another Versus Paramjit Singh and another*, 1985 (2) PLR 147. In that case, the suit was based on agreement of sale and only defendant was allowed to be made party, subject to condition that he can take the plea of limitation in the written statement.

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However, in present case, the claim against another legal heir of Darshan Singh sought to be added as co defendant under Order I Rule 10 CPC, 1908, is patently time barred. As per Section 21 of Limitation Act, 1963, in case of addition of a defendant, the suit against him is taken to have been instituted when he is so made party. If that is accepted, the claim has become time barred against him. The plaint against him, even if it is filed, is liable to be rejected as it is time barred. Consequently, instant revision is dismissed.

(KULDIP SINGH)
JUDGE

15.2.2018
sjks

Whether speaking / reasoned : Yes / No

Whether Reportable : Yes / No