

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

125

CR No.9142 of 2017 (O&M)

Date of decision: 15.01.2018

Kamaljit Singh

..... Petitioner

Versus

Gulzar Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Surinder Mohan Sharma, Advocate
for the petitioner.

ANIL KSHETARPAL, J. (ORAL)

CM-613-CII-2018

Allowed as prayed for.

Main Case

Petitioner is in revision petition against the order dated 30.10.2017 dismissing the application under Order 7 Rule 11 for rejection of the plaint. Learned trial Court has noticed that the plaintiff wants the Court to reject the plaint on following grounds:-

1. Plaintiff does not have cause of action.
2. Property is part and parcel of settlement dated 18.08.2012.
3. Suit is barred by limitation.

Learned trial Court after considering all aspects of the matter has dismissed the application by recording a prima facie finding that the plaint cannot be rejected on these grounds. The Court has noticed that the plaintiff has prayed for setting aside the order passed on 18.08.2012 by the Civil Court as also release deed dated 29.10.2013. Plaintiff in para 12 has pleaded

his cause of action as under:-

“That the cause of action arose in favour of the plaintiff and against the defendants few days back when the defendants alongwith several other persons came at the spot and tried to take forcible possession from the plaintiff but the action of the defendants was restricted with the help of respectable persons of the village.”

In the considered opinion of this Court, it cannot be said that the plaintiff does not have a cause of action. On the second issue, the Court has held that the earlier litigation between the parties was not disposed of in accordance with the provisions of Order 23 Rule 3, CPC. The parties may have entered into a settlement, however, the suit cannot be held to be barred under Order 23 Rule 3-A of the Code of Civil Procedure. With regard to limitation, the Court has held that whether the suit is beyond limitation or not can be decided after permitting the parties to lead evidence.

This Court does not find any reason to interfere with the detailed order passed by the trial Court.

However, at this stage, learned counsel for the petitioner has submitted that since the dispute is between the family members and the parties have suffered in numerous litigations, therefore, the trial Court be directed to decide the suit expeditiously.

Taking into consideration the request made, this Court is of the opinion that the trial Court can be requested to expedite the trial of the case and try to decide the same within a period of one year and six months.

Revision petition is disposed of.

15.01.2018

Dinesh Bansal

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No