

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA No.1850 of 2015 (O&M)

Date of decision: 26.07.2018

Gamdoor Singh and others

..... Appellants

Versus

Kaur Singh and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. A.P. Kaushal, Advocate
for the appellants.

None for the respondents.

ANIL KSHETARPAL, J. (ORAL)

Defendants-appellants are in the regular second appeal against the concurrent finding of fact arrived at by the Courts below.

Learned counsel for the appellants while getting the notice of motion issued, had contended as under:-

“Learned counsel for the appellants submitted that the suit filed by Daljit Singh against Kaur Singh and Karnail Singh for recovery of ₹ 1,00,000/- for damages on account of injuries caused to him, was decreed by the trial court on 31.3.1998. Only Kaur Singh and Karnail Singh filed appeal. The judgment and decree of the trial court was upheld. In execution filed by Daljit Singh, the respondents/plaintiffs filed objections stating that part of the money is to be recovered from the present appellants. However, those objections were dismissed. No further remedy was availed of against that order. The amount was paid in execution by the respondents on 13.2.2004. The suit for recovery of the amount from the appellants was filed on 5.6.2007, which was time barred.

Notice of motion for 15.12.2015.”

This is the argument which has been submitted again before this Court today. Learned counsel was requested to provide a photocopy of the plaint, on careful perusal thereof clearly shows that it was instituted in the year 2004. The affidavit of the plaintiff in support of the plaint is dated 24.04.2004. Hence, the suit filed by the plaintiffs cannot be said to be barred by time. Still further, a joint decree for recovery of the amount was passed against the plaintiffs and the defendants. The plaintiffs have discharged the aforesaid decree while making payment on 13.02.2004 and thereafter, they filed a suit for recovery of share which was payable by the defendants-appellants.

Learned counsel has further submitted that the plaintiffs had filed objections before the learned Executing Court contending that the amount is recoverable proportionately from all the judgment-debtors which was dismissed. He submitted that since the objections have been dismissed, therefore, the defendants-appellants are not liable to pay the amount. This Court has considered the submission, however, finds absolutely no substance therein. Once a decree for recovery has been filed, the decree-holder is entitled to recover the amount from any of the judgment-debtor and it is thereafter, it is the judgment-debtors inter se who have to settle their account.

In view thereof, there is no scope for interference with the concurrent finding of fact arrived at by the Courts below.

Appeal is dismissed.

(ANIL KSHETARPAL)
JUDGE

26.07.2018
Dinesh Bansal

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No