

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

RSA No. 1501 of 2018(O&M)

Date of decision: 14.3.2018

Chanchal and anotherAppellants

VERSUS

Naresh KumarRespondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. J.S. Saneta, Advocate for the appellants.

REKHA MITTAL, J.(Oral)

The present appeal directs challenge against concurrent findings recorded by the Courts whereby suit for recovery filed by the respondent/plaintiff was partly decreed with proportionate costs qua recovery of Rs.5 lakhs along with interest at the rate of 9% per annum from 12.06.2010 till actual realization.

The sole submission made by counsel is that with regard to pronote and receipt Ex.P1 dated 12.06.2010, suit was instituted on 01.07.2013, therefore, suit is clearly barred by limitation having been filed after expiry of three years from the date of loan. It is further submitted that the appellants raised a question of limitation in the written statement but no specific issue in this regard was framed by the trial Court.

I have heard counsel for the appellants, perused the paper-book and judgments passed by the Courts.

Counsel for the appellants has not disputed that in the plaint, the respondent/plaintiff raised a plea that the Courts were closed for civil work from 01.06.2013 to 30.06.2013 and in written statement, it was stated to be a matter of record though question of suit being barred by limitation was raised. The Appellate Court in para 14 has dilated on the question of limitation and has recorded a factual finding that the Courts were closed from 01.06.2013 to 30.06.2013 due to summer vacations and suit was filed by the plaintiff on the opening day i.e. 01.07.2013, hence suit was within limitation.

Counsel for the appellants is not in a position to dispute factual findings recorded by the Court in appeal that the Courts were closed for summer vacations from 01.06.2013 to 30.06.2013. In the given scenario, suit filed by the respondent/plaintiff on the opening day i.e. 01.07.2013 cannot be said to be barred by limitation because the period when the Courts were closed for civil work is liable to be excluded for computing limitation.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine.

MARCH 14, 2018

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no