IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

1. SAO No. 26 of 2014 (O&M)

Om Parkash **...Appellant**

Versus

Kanta & others **...Respondents**

---

2. SAO No. 27 of 2014 (O&M)

Om Parkash **...Appellant**

Versus

Shanti & others **...Respondents**

Date of decision: 23.05.2018

CORAM:- HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. C. B. Goel, Advocate
for the appellant(s) in both appeals.

Mr. Deepak Balyan, Advocate
for respondent Nos. 1 and 2 in both appeals.

****

KULDIP SINGH, J. (Oral)

This common order shall dispose of above noted two appeals as they are arising out of the same judgment.

These appeals have been filed against the judgment and decree dated 15.03.2014, passed by learned District Judge, Jhajjar, whereby the judgment and decree dated 15.03.2011 passed by the trial Court as well as order dated 24.07.2010 was set aside and the case was remanded to the trial

Mohammad Waseem Ansari
2018.05.30 16:39
I attest to the accuracy and
authenticity of this document

Court with a direction to return its findings on the issue of limitation and dispose of the suit as per law.

I have heard learned counsel for the parties.

It comes out that the suit of the plaintiff/appellant was decreed by the trial Court for declaration and for specific performance of contract dated 18.12.2000. Sale deed No. 318 dated 14.04.2006 and mutation No. 6531, executed by defendant No. 1 in favour of remaining defendants were declared illegal, null and void. Defendant No. 1 was directed to execute registered sale deed in favour of the plaintiff within two months of the said judgment.

In the appeal, filed by two sets of defendants, learned District Judge, Jhajjar took the view that the issue regarding limitation was not framed, therefore, the issue regarding limitation was framed and the case was remanded to the trial Court for its adjudication afresh.

I am of the view that question of limitation is a legal question and can always be looked into while granting or refusing the claim of the plaintiff. Therefore, even in the absence of issue regarding limitation, the Court could record the findings whether the relief can be granted or it is time barred. Therefore, there is no need to frame the specific issue and order the rehearing of the matter by the trial Court.

As such, the impugned judgment dated 15.03.2014, passed by the learned District Judge, Jhajjar, framing issue of limitation and remanding the case to the trial Court, is set aside. The case is remanded to the Court of learned District Judge, Jhajjar with a direction to hear the appeal on merits and decide the same within three months from the date of

Mohammad Waseem Ansari
2018.05.30 16:39
I attest to the accuracy and
authenticity of this document

receipt of certified copy of this order.

Both the parties are directed to appear before the Court of learned District Judge, Jhajjar on 12.07.2018 at 10:00 A.M.

The present appeals stand allowed.

Since the main appeals are allowed, therefore, pending civil miscellaneous application, if any, shall also stand disposed of.

(KULDIP SINGH)
JUDGE

23.05.2018
Waseem Ansari

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*

Mohammad Waseem Ansari
2018.05.30 16:39
I attest to the accuracy and
authenticity of this document