

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

Date of Decision: 24.07.2019

1. CR No.2033 of 2016(O&M)

Jasbir Singh

-Petitioner

Vs

Amrik Singh

-Respondent

2 CR No.2077 of 2016(O&M)

Satnam Singh

-Petitioner

Vs

Amrik Singh and others

-Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Rajesh Sethi, Advocate,
Mr. Gaurav Kamboj, Advocate,
Ms. Varinder Kaur Warraich, Advocate,
Ms. Sukhpinder Kaur, Advocate and
Mr. Tushar Gera, Advocate
for the petitioner.

Mr. Sanjay Verma, Advocate
for respondents No.2 to 4
(in CR No.2077 of 2016)

RAJ MOHAN SINGH, J. (ORAL)

1. Vide this common order, CR No. 2033 of 2016 titled
Jasbir Singh vs. Amrik Singh and CR No. 2077 of 2016 titled

Satnam Singh vs. Amrik Singh and others are being decided.

2. The petitioner has preferred these revision petitions against the order dated 23.02.2016 passed by the Additional Civil Judge (Sr.Divn.), Yamuna Nagar at Jagadhri, vide which application for amendment in the plaint was allowed, permitting the plaintiff to incorporate relief of declaration in the original suit for permanent injunction.

3. Perusal of the order would show that suit for permanent injunction was filed on 19.01.2012. First application was filed on 26.03.2012 under Order 6 Rule 17 CPC for amending the suit for permanent injunction to a suit for specific performance. The said application was allowed by the trial Court vide order dated 03.05.2012. Thereafter, written statement was filed by the defendant on 08.11.2012. Second application for amendment was filed on 13.02.2016, seeking incorporation of relief of declaration.

4. The said application has been allowed by the trial Court vide impugned order dated 23.02.2016. The declaration was sought on the basis of a notice issued by the petitioner in the month of February, 2012 cancelling the agreement and forfeiting the amount of earnest money. By way of amendment in the plaint, the plaintiff sought to challenge the aforesaid

notice in the application dated 13.02.2016. Apparently, cause of action which accrued in favour of the plaintiff on receipt of notices issued to him in the month of February, 2012, was barred by limitation on the date of filing of application on 13.02.2016. By that time a period of four years had already gone by and the claim which had already become time barred cannot be allowed to be inserted by way of amendment.

5. Learned counsel for the petitioner relied upon **Tarlok Singh vs. Vijay Kumar Sabharwal, 1996(2) RRR 323, K. Raheja Construction Ltd. vs. Alliance Ministries, 1995(3) RRR 425, Jagdev Singh vs. Gursewak Singh, 2015(9) RCR(Civil) 895, L.C Hanumanthappa vs. H.B. Shivakumar, 2015 AIR (SC) 3364 and I.S. Sikandar (D) by LRs vs. K. Subramani, 2013(15) SCC 27** wherein doctrine of relating back has been discussed in the context of the relief of declaration of title which would have become time barred at the time of filing of the application for amendment.

6. Evidently, as per ratio laid down in I.S. Sikandar's case (supra), plaintiff felt necessity to incorporate the relief of declaration. Whether challenge to the notice is *sine qua non* for the maintainability of the suit or not would be decided by the trial Court in accordance with law without being influenced by this

order vide which amendment in the plaint is being declined.

7. Both the revision petitions are accordingly disposed
of.

24.07.2019
rakesh

(RAJ MOHAN SINGH)
JUDGE

- 1. Whether speaking/reasoned : Yes/No
- 2. Whether reportable : Yes/No