

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

105

CR No.3342 of 2013 (O&M)

Date of decision: 07.03.2019

Bal Kishan and others

..... Petitioners

Versus

Hamidi and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. C.B. Goel, Advocate
for the petitioners.

Mr. Vivek Goyal, Advocate
for the respondents.

ANIL KSHETARPAL, J.(ORAL)

Plaintiffs-petitioners are in the revision petition against the order passed by the learned trial Court dismissing the application under Order 6 Rule 17, CPC for permission to amend the plaint and convert a suit for injunction into a suit for specific performance of the agreement to sell.

Although, trial Court has held that such amendment would change the nature of the suit which is not permissible and such observations are not correct, however, there are other grounds on which the application for amendment has been dismissed. Learned trial Court has found that the suit for injunction was filed on 19.12.2008. As per agreement to sell, the target date for execution and registration of the sale deed was fixed as 25.08.2008. The agreement to sell was with a minor through his mother.

The application was filed by the mother before the Guardian Judge seeking permission to sell which was granted on 13.06.2006. However, the

aforesaid order of permission was set aside on 18.01.2007 and ultimately, the application was withdrawn on 31.01.2007. The Court has held that it is the plaintiff who has produced certified copies of the order dated 13.12.2008, therefore, the Court has found that the plaintiff is not correct in pleading that he did not come to know of the withdrawal. The Court has found that the suit for specific performance of the agreement to sell has become time barred.

Learned counsel for the petitioners submitted that there is no basis for the Court to record a finding that the plaintiff had obtained certified copy of the order dated 31.01.2007. On being asked to produce certified copy obtained from the Court of Guardian Judge, the counsel expressed his inability. Hence, this Court is left with no choice but to believe the finding arrived at by the Courts below. In view thereof, the amendment sought to convert a suit for injunction into specific performance has become barred by time.

Hence, there is no ground to interfere.

The pending miscellaneous application, if any, shall stand disposed of accordingly.

Revision petition is dismissed.

07.03.2019
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No