

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

C.R. No. 7912 of 2017

Date of decision:- 17.09.2019

Fazru

...Appellant

Versus

Giasi Ram and ors.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Johan Kumar, Advocate, for the petitioner.

RITU BAHRI J. (Oral)

The present revision petition is against order dated 02.08.2017 (P-6) passed by learned District Judge, Faridabad whereby plaint has been rejected and the appeal of the petitioner has been dismissed.

The plaintiff/appellant filed a suit for for declaration with consequential relief of permanent injunction stating that he is owner/co-sharer in actual physical possession of the land as mentioned in the plaint to the extent of ½ share as his ancestral property left by his father (P-1). The notice was issued to the respondent, who filed an application for rejection of the plaint on the basis of limitation. The application was allowed on 08.09.2016 by the learned trial Court and appeal filed by the petitioner against the above said order also stands dismissed on 02.08.2017 (P-6)

Learned counsel submits that the plaint has been wrongly rejected on an application under Order 7 Rule 11 CPC. Learned counsel submitted that the question of limitation is a mixed question of law which can only be proved by leading cogent evidence during trial and plaint cannot be rejected on the ground of limitation. The Court has to take a decision looking at the pleads of plaintiff only and the reply or documents

on behalf of defendants cannot be taken into consideration. Learned counsel has relied upon a judgment of Hon'ble the Supreme Court of India in a case of ***P.V.Guru Raj Reddy (represented by GPA Laxmi Narayan Reddy) and another vs. P. Neeradha Reddy and others etc, 2015 (2)R.C.R (Civil) 43.***

After hearing learned counsel for the petitioner at length, the present revision petition is liable to be dismissed, as the appellant attained the majority on 15.02.1966 and he failed to challenge the alienation of his share within three years of date of attaining the majority which expires on 15.02.1969. Thereafter, another sale deed dated 03.04.1974 was executed in favour of defendant No. 1. The plea taken by the appellant that he came to know about this fact on 20.01.2013 cannot be believed as the entry in the revenue record is a notice to general public.

The revision petition stands dismissed, being devoid of merit.

17.09.2019

G Arora

***Whether speaking/reasoned
Whether reportable***

***Yes
No***

**(RITU BAHRI)
JUDGE**