

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

Sr. No.118

C.R. No.2769 of 2019 (O&M)
Date of decision: 06.05.2019

Puneet Mehta

....Petitioner

versus

Jagdeep Singh

....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Ashok Gurnani, Advocate and
Mr. Jatan Singh, Advocate
for the petitioner.

Mr. Piyush Bansal, Advocate
for the respondent/caveator.

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DEEPAK SIBAL, J. (Oral)

Notice of motion.

Mr. Piyush Bansal, Advocate, accepts notice on behalf of the
respondent.

Learned counsel for the parties have been heard.

The present petition is directed against the order dated
02.03.2019 passed by the Civil Judge (Senior Division), Gurugram (for
short – the Trial Court) dismissing an application filed by the petitioner
under Order 7 Rule 11 CPC.

The facts, in brief, which are required to be noticed for
adjudicating upon the present petition are that the respondent filed a suit

seeking therein to recover from the petitioner an amount of ₹1,10,00,000/-. Interest, litigation expenses etc. were also claimed. On being put to notice, the petitioner, who was the defendant in the suit appeared before the Trial Court and filed an application under Order 7 Rule 11 CPC seeking therein rejection of the respondent's plaint on the ground that respondent's claim was time barred. The Trial Court found that the last payment allegedly made by the respondent to the petitioner was on 30.06.2015 and that as per the averments made in the plaint, the petitioner had finally refused to make payment of the amounts loaned by the respondent to the petitioner on 25.12.2017. In the light of these facts, since the suit had been filed on 08.03.2018, the Trial Court was of the view that the respondent's suit was within limitation. Consequently, the petitioner's application was dismissed.

Learned counsel for the petitioner submits that he does not press the present petition on merits. However, he is aggrieved by the observations made by the Trial Court in the impugned order with regard to the suit of the respondent being within limitation. According to him both sides are yet to lead evidence and the issue of limitation would be decided thereafter. Therefore, the observations made in the impugned order with regard to the respondent's suit being filed within the statutory period of three years would be prejudicial to the petitioner's case.

Learned counsel for the respondent submits that the above prayer made by learned counsel for the petitioner is reasonable.

In the impugned order, the observations made by the Trial Court are at the stage of adjudication of an application filed by the petitioner under Order 7 Rule 11 CPC when no evidence has been led by the parties. In fact, even a written statement has not been filed. Thus, the

observations made in the impugned order with regard to the respondent's suit being within the prescribed period of limitation would not influence the Trial Court at the time when the respondent's suit is finally decided which would be after both parties would have filed their respective pleadings and would have also led evidence on the issue of limitation as also on other issues to be framed by the Trial Court with regard to the disputes between them.

The petition is disposed of in the above terms.

(DEEPAK SIBAL)
JUDGE

May 06, 2019
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Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No