

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.111

Civil Revision No.1068 of 2021

DATE OF DECISION: June 30, 2021

M/S BABLI OIL CARRIERS

..PETITIONER

VERSUS

INDIAN OIL CORPORATION LIMITED AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Narender Pal Bhardwaj, Advocate, for the petitioner.

SUDHIR MITTAL, J. (ORAL)

The petitioner is the plaintiff. It filed a suit for declaration that order dated 24.12.2009 blacklisting its fleet of tankers/trucks w.e.f. 30.02.2009 and for a period of two years is null and void. Relief of mandatory injunction/prohibitory injunction was also sought. After service of notice, an application *inter alia* under Order 7 Rule 11 CPC was filed on behalf of the Indian Oil Corporation. The said application has been allowed by the trial Court vide impugned order dated 09.03.2021 on the ground that the suit is barred by limitation.

Learned counsel for the petitioner submits that limitation is a mixed question of facts and law and that the Hon'ble Supreme Court in ***Vaish Aggarwal Panchayat vs. Inder Kumar and others, 2015 (4) RCR (Civil) 167*** has held that the expression 'barred by law' in Order 7 Rule 11 (d) CPC does not include the law of limitation. Thus, the impugned order is liable to be set aside.

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It is not in dispute that the suit was filed on 15.01.2014 and that the challenge therein is to order dated 24.12.2009. Period of limitation prescribed for a suit for declaration is three years. Thus, the suit is patently barred by limitation. Reliance upon *Vaish Aggarwal Panchayat (supra)* is misplaced as the said case does not state as an absolute proposition that law of limitation can never be the cause for rejecting a plaint. All that the said judgment says is that whether a plaint can be rejected on the ground of limitation or not would depend upon the facts of that particular case. The facts of this case are not in dispute and thus, the contention of learned counsel for the petitioner cannot be accepted.

Next, it has been argued that a question of limitation being a mixed question of facts and law, the same cannot be decided as a preliminary issue. Thus, an application under Order 7 Rule 11 CPC cannot be allowed on the ground of limitation alone. This argument is being dealt with only to be rejected. In this case, there is no application for decision of the suit after framing of a preliminary issue and thus, the argument is misconceived.

For the aforementioned reasons, the revision petition has no merit and is dismissed.

June 30, 2021

Ankur

(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No