

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

CR-2029 of 2021 (O&M)

Date of decision: 23.09.2021

Siri Chand Jain since deceased thr. LRs and another

...Petitioners

Versus

Ravinderjit Singh and another

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Aayush Gupta, Advocate for the petitioners.

H.S. MADAAN, J.

Case taken up through video conferencing.

This civil revision petition is directed against order dated 25.08.2021, passed by Civil Judge (Jr. Divn.) Ludhiana, vide which she had allowed an application U/o 6 Rule 17 CPC for amendment of the plaint and another application U/o 1 Rule 10 CPC for impleading of the parties moved on behalf of the plaintiffs.

The defendants, who are petitioners before this Court are feeling aggrieved by that order and have brought the instant civil revision petition.

I have heard learned counsel for the revision petitioners besides going through the record.

Briefly stated facts of the case are that plaintiffs Ravinderjit Singh and Dilbagh Singh had brought a suit for possession as owners against defendants Siri Chand Jain and his son Neeraj Jain, both residents of 89, Aggar Nagar, Ludhiana, seeking possession as owners, though

actual possession is already with them (of the land measuring 8K-3M detailed in the headnote of the plaint situated at Village Bhattian, Tehsil and District Ludhiana) and for permanent injunction restraining the defendants from interfering in peaceful possession of plaintiffs over the suit property, contending that the defendants representing themselves to be owners of the suit land, had entered into an agreement to sell with the plaintiffs for a total sale consideration of Rs.4,50,000/-, vide written agreement dated 21.09.2000, receiving Rs.3,50,000/- as earnest money and putting the plaintiffs in actual possession of that property; the stipulated date for execution of the sale deed was fixed as on or before 30.06.2003; however, that date has been extended upto 30.10.2003 and thereafter, on 27.10.2003 to 31.12.2003, when the defendants had received an amount of Rs.50,000/- from the plaintiffs; however, the defendants dragged their feet in the matter and did not execute the sale deed, therefore, the plaintiffs brought the suit in question.

The civil suit was decreed ex parte on 11.12.2007; subsequently, the defendants filed an application on 26.09.2008 for setting aside of ex parte judgment and decree, however, it was dismissed by the trial Court on 03.12.2015; the defendants filed an appeal against that order; the appeal was allowed on 26.09.2019; the defendants filed written statement, stating that they have sold the suit property to various persons and such purchasers are necessary parties; the plaintiffs having not joined such purchasers, the suit is bad for non-joinder of parties; the plaintiffs filed an application for directing the defendants to produce the

copies of sale deeds vide which they had allegedly sold the suit property but defendants in the written reply stated that they do not have any copy of such sale deed; thereafter, the plaintiffs managed to get the copies of sale deeds from the office of Sub Registrar, Ludhiana and thereafter, filed the applications in question.

The applications were resisted on behalf of the defendants, however, those were allowed by the trial Court, vide impugned order, coming to the conclusion that amendment is found to be essential for complete and effective adjudication of the matter in hand and no prejudice would be caused to the opposite party, if amendment is allowed; moreover, the trial in the case had not commenced, since only issues have been framed but no evidence of plaintiffs have been recorded; it was further observed that as per Article 59 of the Limitation Act, the period of limitation of 03 years is to be reckoned from the date of knowledge regarding instrument to be challenged and it was case of plaintiffs that they had come to know about execution of sale deeds by the defendants to various persons from perusal of the written statement, which was filed in December 2019 and counting period of 03 years from that date; the sale deeds had been challenged within a period of limitation; the trial Court has rightly observed that under the circumstances, limitation is a mixed question of law and facts; the trial Court has referred to various judgments in support of the conclusion drawn vide impugned order.

In the revision petition, the main argument advanced on behalf of revision petitioners is that the amendment in this case being

time barred could not be allowed and that limitation should be counted from the date of execution of the sale deeds which being registered documents are to be taken as notice to the entire world and since such sale deeds are being challenged beyond a period of 03 years, the amendment cannot be allowed and the trial Court fell in error in doing so. In support of his contentions, learned counsel for the revision petitioners has referred to judgments **M/s Super Ispat Udyog Partnership Firm and Ors. Vs. M/s National Steel and Agro Industries Ltd. & Ors.** in CR-7535-2017 decided on 17.09.2018 and **Smt Dilboo (dead) by LRs. & Ors. Vss. Smt. Dhanraji (dead) and Ors.,** (2000) 7 SCC 702. However, I do not find myself in agreement with learned counsel for the revision petitioners. The order passed by the trial Court is quite detailed, well reasoned, does not suffer from any illegality and infirmity. It is specific case of the plaintiffs, that they had come to know about execution of the sale deeds by defendants on perusal of the written statement filed by the defendants in December 2019 and thereafter, the applications in question were filed. As it comes out from from the record, the limitation in this case is to be counted from the date of knowledge of the sale deeds by the plaintiffs and considering the circumstances of the case. Knowledge of the sale deed cannot be imputed to the plaintiffs from the date of execution of such sale deeds, merely for the reason that documents are registered. The proposed amendment has been found to be essential for just, complete and effective adjudication of the controversy between the parties. Therefore, the trial Court was justified in allowing

the applications for amendment of the plaint to challenge the sale deeds executed by defendants to various persons after entering into agreement to sell with the plaintiffs and to implead vendees under the sale deeds as parties for final adjudication of controversy between the parties. There is no occasion for interference with the impugned order by exercising the revisional jurisdiction. The revision petition is found to be without merit and is dismissed accordingly.

However, nothing discussed above shall have any bearing on the merits of the case.

23.09.2021

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(H.S. MADAAN)
JUDGE

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