

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

**RSA-494-2022 (O&M)
Date of decision : 09.11.2022**

Ajmer Singh **...Appellant**
Vs.
Harish Gaur **...Respondent**

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Abhishek Jindal, Advocate
for the appellant.

MANOJ BAJAJ, J.

Appellant (plaintiff) has preferred regular second appeal to challenge the judgment and decree dated 16.11.2021 passed in Civil appeal No.RBT-01-2020 by first appellate Court, affirming the judgment and decree dated 05.12.2018 passed by Additional Civil Judge (Senior Division) Panipat, whereby his suit for recovery of Rs.40,00,000/-, was dismissed.

Learned counsel for the appellant has argued that the plaintiff/appellant had engaged himself in a business through partnership firm, M/s AHN Associates, and were supplying machines on rent used for the purposes of construction of buildings etc. He submits that later on, the said firm was dissolved by way of a written instrument dated 18.02.2009 (Ex.P-1) and as per this writing, defendant-Harish Gaur had agreed to pay him a sum of Rs.20 lacs apart from fulfilling other conditions. He submits that the plaintiff had successfully proved his case for recovery of amount against the defendant, but the Courts have dismissed the suit only on the issue of limitation by holding the suit as time barred. He submits that the appellant also faced criminal prosecution through FIR No.4 dated 05.01.2010 registered

under Sections 420, 406 and 120-B IPC, which was lodged by defendant and the appellant had filed a petition before this Court through CRM-M-23433-2012 for quashing of the FIR, wherein this Court had granted liberty to the appellant to produce and prove the dissolution deed before the trial Court. He submits that since the appellant/plaintiff was pursuing his remedy in accordance with law, therefore, the benefit of Section 14 Limitation Act, 1963 deserves to be extended to him. He submits that the appellate court has also failed to appreciate the evidence on record carefully while affirming the judgment and decree dated 05.12.2018 passed by the trial Court. He submits that the impugned judgment and decree passed by the appellate Court warrants interference by this Court.

After hearing learned counsel and considering the evidence on record, this Court finds that the cause of action as per the own case of the plaintiff accrued to him in February 2009, when the dissolution deed/agreement (Ex.P-1) between the parties was reduced into writing, but concededly the suit was filed by the plaintiff on 2014. The argument that the appellant was pursuing his remedy pursuant to the criminal case lodged by defendant to seek benefit of Section 14 Limitation Act, 1963 is apparently misconceived, as in the said proceedings, the prayer of the appellant was for quashing of the FIR and not for recovery of the amount from defendant. Thus, the benefit of Section 14 Limitation Act, 1963 in computing the period of limitation could not be extended to the plaintiff, who has failed to explain the delay in filing the suit. A perusal of the impugned judgment shows that the material findings returned by the trial Court and upheld by the first appellate Court are based upon proper appreciation of evidence and do not suffer from

perversity. Thus, the concurrent findings of fact recorded by the Courts do not call for any interference, as the appeal does not involve any substantial question of law.

No other argument was raised.

Resultantly, finding no merit in this appeal, the same is hereby dismissed.

Since the main case is dismissed on merits, pending miscellaneous application(s), if any, are also dismissed.

(MANOJ BAJAJ)
JUDGE

09.11.2022
vanita

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