

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

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RSA No. 2226 of 2022 (O & M)

Date of decision : 5.12.2022

*Charanjit Kaur**.....Appellant**Vs.**Darshan Singh and others**.....Respondents***CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

Present: Mr. Shekhar Kumar, Advocate, for the appellant

TRIBHUVAN DAHIYA, J. (Oral)

1. This is regular second appeal against the order dated 29.6.2020 passed by the trial Court and the order dated 26.7.2022 passed by the lower Appellate Court, whereby suit filed by the appellant/plaintiff (hereinafter referred to as 'the plaintiff') has been dismissed by allowing the application under Order VII Rule 11 CPC.

2. The plaintiff filed a suit for declaration to the effect that she is owner in possession of the suit land, and that the alleged family partition and subsequent mutation no. 6019 dated 15.5.2000 were illegal and unjust. The trial Court allowed the application filed by respondents/defendants under Order VII Rule 11 CPC and rejected the plaint on the ground of limitation vide order dated 29.6.2020. The appeal filed against the same has also been rejected by the lower Appellate Court, vide judgment dated 26.7.2022, by holding that as per pleadings, cause of action to the plaintiff arose in the year 2000 whereas the suit in question was filed on 18.5.2020.

3. Admittedly, Santokh singh was original owner in possession of the property to the extent of his share. After his death, his property was inherited by

his eight sons, including Pritam Singh, the plaintiff's husband, who was alive at that time. As a result of a family partition, separate shares in the property were allotted to the family members, and mutation to that effected was entered in the revenue record, vide mutation no. 6019 dated 15.5.2000. Shares of all the co-sharers were recorded in the *jamabandis* as well. Pritam Singh, plaintiff's husband, died on 23.8.2017. After his death, suit in question was filed by the plaintiff on 18.5.2020 challenging the mutation on the ground that her husband got less share in the family partition as compared to that of his other brothers, who allegedly committed a fraud upon the plaintiff. It was in these circumstances, that the Courts below held the suit to be barred by limitation, and rejected the plaint.

4. It is a settled preposition of law, if from the pleadings itself it is apparent that the suit is barred by limitation, the plaint can be rejected under the provisions of Order VII Rule 11 CPC. Learned counsel for the appellant/plaintiff is not in a position to point out any averment or any other material on record which would establish that the fact of family partition did not come to the knowledge of the plaintiff when the same was mutated in the year 2000.

5. In view thereof, there is no ground to interfere with the findings of the judgments of the Courts below.

6. Dismissed.

7. The pending miscellaneous application(s), if any, stands disposed of as having been rendered infructuous.

(TRIBHUVAN DAHIYA)
JUDGE

5.12.2022

Ashwani

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No