

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

CR-9236-2018 (O&M)
Date of Decision:29.03.2022

Kewal Singh

... Petitioner

Versus

Kehar Singh and another

... Respondents

CORAM : HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present : Mr. Vinod Kaushal, Advocate for
 Mr. Naveen Batra, Advocate for the petitioner

 Mr. Kiran Kumar, Advocate for respondent No. 1.

ANIL KSHETARPAL, J.(Oral)

Defendant no. 1 has assailed the correctness of the order passed by the learned trial court while permitting the plaintiff to amend the plaint. The suit is stated to be pending at the initial stage. By way of an amendment, the plaintiff prays for grant of declaration that the sale deed dated 16.03.2015, executed by Kewal Singh, defendant no. 1, in favour of defendant no. 2 Gurcharan Singh (defendant no.1's son), is not binding on his rights. The application has been allowed by the trial court.

Learned counsel representing the petitioner contends that the plaintiff cannot maintain the suit for declaration challenging the validity of the sale deed, dated 16.03.2015 as the same has become barred by time. It is evident that the plaintiff has only sought declaration that such sale deed does not affect his rights. The petitioner is entitled to object to the suit on the ground of limitation before the trial court. At

this stage, only an amendment has been allowed. Further there is difference between a suit filed under Section 31 of the Specific Relief Act, 1963 seeking annulment of the document and a suit filed under Section 34 of the Specific Relief Act, 1963, seeking declaration. In the present case, the plaintiff has only sought declaration that such sale deed does not affect his rights.

Hence, dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

(ANIL KSHETARPAL)
JUDGE

29.03.2022
rekha

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No