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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-8101-2019 (O&M)

Date of Decision:06.09.2022

Suryapal

.. Petitioner

Vs.

Sunil

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Vikram Singh, Advocate for the petitioner.

None for the respondent.

...

Manoj Bajaj, J. (Oral)

Petitioner has filed this revision petition under Article 227 Constitution of India for setting aside the order dated 13.11.2019 (Annexure P-4), whereby his application under Order VII Rule 11 CPC was dismissed by Civil Judge (Jr. Divn.) Safidon.

Learned counsel for the petitioner has argued that the suit for recovery of Rs.4,62,000/- (Annexure P-1) is based upon pronote dated 21.07.2014 and the same was filed after expiry of the period of limitation and even proper court fee was not affixed and in this regard, the application filed by the petitioner/defendant under Order VII Rule 11 CPC for rejection of plaint was moved, but the same has been erroneously dismissed by the trial Court. He submits that the impugned order is not sustainable and the plaint is liable to be rejected.

During the course of hearing, it is not disputed by learned counsel that though initially Rs.200/- were affixed as court fee with the plaint, but subsequently, a sum of Rs.28,500/- was affixed by the plaintiff,

however, according to the learned counsel, since there was no application under Section 149 IPC for making good the deficient court fee, the plaint is still defective. He submits that the period of limitation came to an end on 20.07.2017, as the pronote was executed on 21.07.2014.

After hearing the learned counsel and considering the above background, this Court finds that the argument relating to the limitation period for filing the suit is misplaced, as the date of executing the pronote has to be excluded for computing the period of limitation, and if, it is computed from 22.07.2014, the suit is within the time period of three years, as it was filed on 21.07.2017. Similarly, the other ground for lack of proper court fee is also without any merit, as admittedly, the plaintiff has removed the defect by affixing the requisite court fee. Further, a perusal of the impugned order reveals that the trial Court has carefully dealt with these two grounds raised by the petitioner/defendant in his application under Order VII Rule 11 CPC while dismissing the application, and the same does not suffer from any illegality or impropriety.

Resultantly, the revision petition fails and is dismissed.

06.09.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes No
Yes No