

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

C.R. No.6617 of 2015 (O&M)

Date of Order:16.11.2023

Nawin Rajp

.Petitioner

Versus

Kulwinder Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ashish Chaudhary, Advocate
for the petitioner.

Mr. Parvinder Singh, Advocate
for respondent no.1.

ANIL KSHETARPAL, J

1. Defendant no.1 assails the correctness of the order passed by the trial court while dismissing the application under Order VII Rule 11 CPC, to reject the plaint at the threshold.

2. The plaintiff's suit for proprietary possession by way of specific performance of the agreement to sell or in the alternative for the recovery of the earnest money is pending. The petitioner (defendant no.1) filed an application under Order VII Rule 11 CPC to reject the plaint on the ground that the suit is not filed within the limitation period as the agreement to sell was entered on 18.04.1996, whereas the suit was filed on 08.11.2012. The trial court dismissed the application on the ground that the question of limitation is a mixed question of law and fact and therefore it would be appropriate to reject the plaint, at this stage.

3. The correctness of the aforesaid order has been challenged in

this revision petition.

4. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book as well as the requisitioned record.

5. With the help of the learned counsel representing the parties, this court has made an attempt to read and understand the contents of the agreement to sell.

6. In the first part of the agreement, it is provided that the sale deed shall be executed within a period of 3 years from the date of the execution of the agreement to sell. In the second part, it is provided that the attorney of the seller after completing the official formalities for transfer of the property would send a notice to the plaintiff and thereafter, the plaintiff shall be entitled to get the sale deed registered within a period of 4 months.

7. It is evident that two different clauses are required to be interpreted in the context of intention of the parties which would require evidence.

8. Keeping in view the aforesaid facts and discussion, this court does not find it appropriate to interfere with the order passed by the trial court.

9. Needless to observe that the petitioner shall have the liberty to request the trial court to frame a distinct issue on the question of suit having been filed beyond the period of limitation, which shall be decided by the court while finally deciding the suit uninfluenced by the observations made by the trial court or by this Court.

10. With these observations, the revision petition is disposed of.

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

November 16, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :YES/NO
Whether reportable :YES/NO