

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

143

2023:PHHC:139168

CR-2817-2023

Date of decision: 31.10.2023

ATAMA SINGH @ ATMA SINGH

..Petitioner

Versus

PARAMJIT SINGH

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Anil Bansal, Advocate
& Ms. Surjit Kaur, Advocate
for the petitioner.

Mr. Harkaran Singh, Advocate
for respondent

ANIL KSHETARPAL, J(Oral)

1. The petitioner herein is the defendant in a pending suit for recovery of Rs.8,74,000/- filed by the respondent herein. An application filed by the defendant (petitioner) under Order VII Rule 11 of the Code of Civil Procedure, 1908, to reject the plaint has been dismissed by the trial Court. The correctness of the aforesaid order has been challenged in this revision petition.

2. The learned counsel representing the petitioner contends that the suit is based upon receipts dated 15.06.2000, 24.06.2000, 05.07.2000, 08.08.2000 & 15.06.2021, therefore, the suit filed by the plaintiff in the year 2022 was filed beyond the prescribed period of limitation. A perusal of the plaint would show that the plaintiff claims that he is a friend of defendant and the plaintiff has stated that the aforesaid amount was kept as a secured amount with the defendant with a promise that the defendant will return the same as and when demanded by the plaintiff. There is no written contract between the parties. Ordinarily, the issue of limitation is a mixed question of

fact and law. The trial Court on the basis of pleadings contained in the plaint has formed an opinion that the plaint cannot be rejected at the threshold.

3. This Court does not find it appropriate to interfere in the aforesaid order particularly when the issue of limitation is based upon the evidence.

4. With these observations, the present petition is disposed of.

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

October 31st, 2023

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*