

[103] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-2032-2009(O&M)

Date of Decision :20.02.2023

Shri Sat Pal Devgan, Old Gran Market,
Tarn Taran, District Amritsar

...Petitioner

versus

Bharat Sanchar Nigam Ltd and another

....Respondents

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. Rahul Sharma, *Amicus Curiae*.

Mr. Harpal Singh, Advocate for
Mr. D.R. Sharma, Advocate
for the respondents.

B.S. Walia, J. (Oral)

[1] Learned Amicus Curiae contends that the challenge in the instant regular second appeal is to dismissal of Civil Appeal No.119 of 2007 in case titled as 'Sat Pal DevgonversusBharat Sanchar Nigam Limited and another' vide judgment and decree passed by the learned Addl. District Judge, Amritsar dated 21.01.2009 while affirming the judgment and decree passed by the learned Civil Judge (Junior Division), Amritsar in Civil Suit No.724 of 2003 on 29.03.2017, decreeing the suit of the respondents-plaintiffs and holding them entitled to recoverRs.14,368/- along with interest @ 12% per annum with effect from the due date till the filing of the suit and future *pendente lite* interest @ 6% per annum from the date of filing of the suit till realization of the entire decretal amount along with costs.

[2] Learned *Amicus Curiae* refers to order dated 31.08.2009 noting the argument advanced on behalf of the appellant-defendant in the light of decision in '**Bharat Sanchar Nigam Limited** *versus* **Pawan Kumar Gupta**', 2007(4) RCR (Civil) 10 (P&H), holding that in suits filed by the BSNL for recovery of outstanding dues for use of telephone, the period of limitation is three years and not thirty years as per Article 112 of the Limitation Act as against contention on behalf of the respondents that matter be adjourned to await decision of SLP by Hon'ble Supreme Court.

[3] Today, learned counsel for the respondents fairly conceded that SLP filed by the BSNL against the aforementioned decision was dismissed and the decision in **Pawan Kumar Gupta's** case (*supra*) as decided by the Punjab and Haryana High Court has attained finality, therefore, in the circumstances, the appeal has to be allowed, as the civil suit was filed by BSNL on 29.04.2003 for the period pertaining to the period May, 1992 to January, 1993.

[4] In view of the position noted above, as well as statement of learned counsel for the respondents, it is held that suit for recovery as filed by the BSNL for recovery of outstanding dues from the appellant defendant for use of telephone could have been filed within three years of accrual of cause of action and not thirty years under Article 112 of the Limitation Act as was the stand of the BSNL on the basis of which the suit was filed. Accordingly, the question of law referred above is answered in favour of the appellant and against the respondents in view of the decision of Hon'ble the Supreme Court in '**Bharat Sanchar Nigam**

[5] In the circumstances, the appeal is allowed and Suit dismissed. However, parties to bear their own costs.

(B.S. Walia)
Judge

20.02.2023
'Rajneesh'

Whether speaking/ reasoned	:	Yes/No
Whether reportable	:	Yes/No