

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-4495-2022 (O&M)
Date of decision: 25.04.2023

Ajmer Singh

...Petitioner

VS

Randhir Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Himanshu Puri, Advocate for
Mr. Sunny Kumar Singla, Advocate,
For the petitioner.

Mr. Pardeep Goyal, Advocate,
For the respondents.

ARUN MONGA, J. (ORAL)

Petition herein is for setting aside impugned order dated 01.09.2022 (Annexure P-3) passed by learned Civil Judge (Senior Division), Malerkotla, whereby application filed by defendant/petitioner herein, under Order 7 Rule 11 (d) CPC for rejection of plaint, was dismissed.

2. Learned counsel appearing on behalf of petitioner *inter alia* contends that once petitioner was discharged vide order dated 15.04.2015 by the Court of learned JMIC, Malerkotla in FIR No.49 dated 16.04.2014, the suit for damages could have been filed within a period of three years thereafter. He submits that in the present case, the suit was filed on 30.05.2018, which is clearly barred by limitation of a period of three years. He further refers to a case titled “*Sheela Devi and others Vs. Manohar Lal Lagah, 2018 (3) PLR, 463*” to contend that mere filing of a revision/appeal against the discharge order would not enlarge the period of limitation and, thus, learned trial Court has committed an error while

rejecting the application under Order 7 Rule 11 (d) of CPC, filed at the instance of petitioner.

3. Learned counsel for the respondent strenuously opposes the instant revision.

4. I have heard learned counsel for parties and gone through the case file.

5. Question of limitation being mixed question of facts and law, it would be rather more appropriate that instead of dismissing the suit *de hors* evidence at the preliminary stage, the objection *qua* limitation is taken up by learned trial Court after recording of the evidence by way of framing the preliminary issue and its finding on the same is given before proceeding further with the trial.

6. Revision petition is accordingly, disposed of.

7. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

25.04.2023

vandana

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No