2024:PHHC:055028

145 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-2208-1991 (O&M)
Date of decision: 23.04.2024

M/s Brij Lal Ved Prakash

....Appellant

Versus

National Insurance Company Limited and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Arun Bansal,
Mr. Anubhav Bansal Bharti,Advocates for the appellant

Mr. Deepak Suri, Advocate for
respondent no.1 to 3 (Insurance Company)

Mr. Deepak Kohli, Advocate for
Mr. Kashish Garg, Advocate for respondent no.4

ANIL KSHETARPAL, J (Oral)

1. In this Regular Second Appeal, the plaintiff assails the correctness of the concurrent findings of fact arrived at by the courts below while dismissing their suit for recovery of Rs.3,57,300/- against the Insurance Company. Both the courts below have found that the suit was required to be filed within one year (12 months) from the date the claim of the appellants was repudiated. Hence, the pivotal issue in this appeal is whether the plaintiff's suit was filed within a period of limitation or not. The claim was repudiated on 27.08.1982 whereas the suit was filed on 07.01.1985. The learned counsel representing the appellant relies upon Division Bench judgment in **Gautam Yadav vs. State of U.P and 3 others, 2020 (12) ILR (Allahabd) 477** 2021 (1) Alla L J 351.

2. Per contra, the learned counsel representing the respondent draws the attention of the Court to the judgment in **National Insurance Company vs. Sujir Ganesh Nayak & Co. And another, JT 1997 (4) SC 180.** The learned counsel representing the respondent also submits that the appeal against the judgment of Allahabad Bench is pending before the Supreme Court.

3. Hon'ble Supreme Court in **National Insurance Company Limited's case (supra)** has held that the contract seeking to curtail the period of limitation while prescribing a shorter period in the insurance contract falls outside the scope of Section 28 of the Indian Contract Act, 1872. In substance, it was held that the suit is required to be filed within a period prescribed in the insurance contract, failing belated claims much after the repudiation of contract shall be filed and it would not be in the interest of justice.

4. It is evident that view of the Supreme Court is binding under Article 141 of the Constitution of India.

5. Keeping in view the aforesaid facts, no ground to interfere is made out.

6. Hence, dismissed.

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

23.04.2024 **(ANIL KSHETARPAL)**
rekha **JUDGE**
Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No