

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-5400 of 2019 (O&M)
Date of Order:23.04.2024

Chirag Setia and others	Versus	.Petitioners
Maina Devi (since deceased) through LRs and Ors.		..Respondents
		CR-5402 of 2019 (O&M)
Anil Setia	Versus	.Petitioner
Maina Devi (since deceased) through LRs and Ors.		..Respondents
		CR-5812 of 2019 (O&M)
Kiran Jain and another	Versus	.Petitioners
Maina Devi (since deceased) through LRs and Ors.		..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Amit Jhanji, Sr. Advocate, with
 Ms. Priyanka Kansal, Advocate
 for the petitioner(s) (in CR-5400 and 5402-2019)

 Mr. Aman Pal, Advocate
 for the petitioner(s) (in CR-5812-2019)

 Mr. Ashwani Kumar Chopra, Sr. Advocate, with
 Mr. Brahmjot Singh Nahar, Advocate
 for respondent no.1(i) (in all cases)

ANIL KSHETARPAL, J

1. These three connected revision petitions assail the correctness of the interlocutory order passed by the trial court on 22.07.2019, while allowing the plaintiffs' application for amendment of the plaint and substituting the purchaser in place of defendant no.5. In substance, Mr. Anil Setia was impleaded as defendant no.5, being owner. However, subsequently it was found that his two sons and two nephews are the

owners. Hence, the application was moved which has been allowed.

2. The learned counsel representing the petitioner(s) submits that the application was filed beyond the prescribed period of limitation and the same could not be allowed.

3. This court has considered the submissions of the learned counsel representing the parties.

4. Admittedly, the plaintiffs are not the executants of the transfer deeds. Hence, they are not required to file suit for annulment of the instruments. There is a distinction between the suit filed under Section 31 of the Specific Relief Act, 1963, for annulment or rescission of an instrument and the suit filed under Section 34 of the said Act for declaration.

5. In this case, the plaintiffs are asserting their rights with respect to the property. The transfer, if any, is between the defendants.

6. In view of the aforesaid facts, the plaintiffs' suit is only for grant of decree of declaration. Consequently, the revision petitions are dismissed.

7. However, it shall be open to the petitioners to pray to the trial court for framing a distinct issue on the question of limitation.

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

April 23, 2024
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(ANIL KSHETARPAL)
JUDGE

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