



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

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**CR-4810-2024 (O&M)
Date of Decision : 28.08.2024**

M/s RK TIMBER

.... Petitioner

VERSUS

M/s BANSAL TIMBER

.... Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Deepak Kumar, Advocate and
Mr. Sidharth Bagla, Advocate for the petitioner.

ALKA SARIN, J. (ORAL)

1. The present revision petition has been filed under Article 227 of the Constitution of India impugning the order dated 17.05.2024 passed by the Trial Court whereby the application filed by the defendant-petitioner herein under Order 7 Rules 11(A) and (D) of the Code of Civil Procedure, 1908 has been dismissed.
2. Brief facts relevant to the present case are that the plaintiff-respondent filed a suit for settlement and rendition of accounts and for recovery of ₹9,64,033.48 (nine lakhs sixty-four thousand thirty three rupees and forty eight paise) along with interest @ 18% per annum. The defendant-petitioner filed an application under Order 7 Rules 11(A) and (D) CPC for rejection of the plaint on the ground that no cause of action was disclosed in the plaint and that the suit was barred by limitation. Reply was filed by the plaintiff-respondent to the said application. The Trial Court vide the

impugned order dated 17.05.2024 dismissed the application. Hence, the present revision petition.

3. Learned counsel for the defendant-petitioner would contend that no cause of action is made out from a reading of the plaint inasmuch as it has not been stated anywhere that this money was owed to the plaintiff-respondent by the defendant-petitioner. It is further the contention that the suit is barred by limitation and that there is no written acknowledgment of the payment having been made on 27.02.2018.

4. Heard.

5. In the present case two-fold arguments have been raised by the learned counsel for the defendant-petitioner. The first argument being that the plaint does not disclose any cause of action deserves to be rejected. Para No.2 of the plaint reads as under :

'That the plaintiff is doing the business of sale and purchase of imported Sawan wood. Plaintiff has maintained the ledger book and entries regarding of sale and purchase of their daily routine business. Defendant have also doing the business of timer. Defendant had insisted the plaintiff to provide timer on credit and defendant have taken the same from the plaintiff time to time and defendant have made the payment for the same through bank and lastly defendant have deposited ₹4,375 on 27.02.2018 in plaintiff's account. Self-attested copy of ledger book from 2010 to March 2021 and self-attested

copy of goods details from 2011 to 27.02.2018 and audit report from 2012 to 2019-20 are attached herewith'.

A meaningful reading of the plaint reveals that it has been averred that the defendant-petitioner herein had taken credit from the plaintiff-respondent from time to time and had also made some payments through bank and lastly the defendant-petitioner had deposited ₹4,375 on 27.02.2018 in the plaintiff-respondent's bank account. In support, the attested copies of the ledger book as well as the attested copy of the details of the goods and audit report have been attached by the plaintiff-respondent. Self-attested copies of bills have also been attached. On a meaningful reading of the plaint, it cannot be said that the plaint does not disclose any cause of action.

6. The second argument of the learned counsel for the defendant-petitioner that the suit is barred by limitation also deserves to be rejected. In the present case the suit was filed on 14.07.2021. The last payment, as averred in the plaint, was made on 27.02.2018. Though limitation of three years would have expired on 27.02.2021, however, the Hon'ble Supreme Court in **Suo Motu Writ Petition (C) No.3 of 2020 [2022 (1) Apex Court Judgments (SC) 268]** decided on 10.01.2022 in Re. Cognizance for extension of limitation had extended the limitation period and held as under :

'5. Taking into consideration the arguments advanced by learned counsel and the impact of the surge of the virus on public health and adversities faced by litigants in the prevailing conditions, we deem it appropriate to dispose of the M.A. No. 21 of 2022 with the following directions:-

- I. *The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.*
- II. *Consequently, the balance period of limitation remaining as on 03.10.2021, if any, shall become available with effect from 01.03.2022.*
- III. *In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply.*
- IV. *It is further clarified that the period from 15.03.2020 till 28.02.2022 shall also stand*

excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.

Hence, at this stage, the plaint cannot be rejected on either of the two grounds as argued by the learned counsel for the defendant-petitioner. It would be a matter of evidence which would be gone into by the Court.

7. In view of the above, I do not find any merit in the present revision petition and the same being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off. It is however, made clear that any observation made herein or by the Trial Court shall not be treated as an expression of opinion on the merits of the case. The question of limitation is also left open to be decided in accordance with law.

28.08.2024
Aman Jain

(ALKA SARIN)
JUDGE

*NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No*