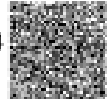


**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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2025.PHHC-020574



CR-5670-2024

Date of decision: 13.02.2025

JAGMAL SINGH AND OTHERS

..Petitioner

Versus

BALBIR SINGH AND OTHERS

..Respondents

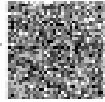
CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Abhinav Kalia, Advocate
for the petitioner.

ANIL KSHETARPAL, J(Oral)

1. In this revision petition, defendants assail the correctness of trial Court's order dismissing their application filed under Order VII Rule 11 of the Code of Civil Procedure, 1908 (in short 'CPC') to reject the plaint at the threshold. The plaintiffs have filed suit for declaration that they are owners in possession of half share of the suit property and the Will dated 02.07.1989, allegedly executed by Smt. Jeoni Devi in favour of Sh. Charan Singh is illegal, null and void. Consequential relief of permanent injunction was also sought. Defendants filed an application under Order VII Rule 11 of the CPC to reject the plaint at the threshold on the ground that suit has been filed beyond the period of limitation and cause of action in favour of the plaintiff does not arise. The trial Court found that in the plaint cause of action has been made part of pleading and at this stage, it will not be appropriate to dismiss the suit on the ground that it was filed beyond the period of limitation without giving opportunity to the parties to lead evidence. The Court noticed that plea of limitation is a mixed question of law and fact and the parties are required to be granted opportunity to prove

their case.



2. Learned counsel for the petitioner submits that the registered Will was executed on 02.07.1965. He submits that the suit was filed in the year 2021 i.e. after a period of 56 years.

3. This Court has considered the submissions of learned counsel for the petitioners.

4. The plaint can be rejected only if the suit is filed beyond the period of limitation on the basis of averments made in the plaint, which has not been produced for perusal of this Court.

5. The trial Court has passed an elaborate order after discussing various aspects of the matter. The plaintiffs are claiming to be in continuous possession of the property along with Sh. Charan Singh and his children and Sh. Charan Singh never claimed the property during all this while on the basis of registered Will. In these circumstances, it would not be appropriate to reject the plaint at the threshold.

6. Hence, no ground to interfere is made out.

7. Dismissed accordingly.

8. Needless to observe that the trial Court shall decide the case uninfluenced by the observations made in the impugned order or by this Court.

February 13th, 2025

Ay

(ANIL KSHETARPAL)
JUDGE

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