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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-2472-2018 (O&M)

Date of Decision : 27.11.2025

Mahinder Singh and Another

... Petitioners

Versus

Nirmala and Others

... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Anshul Gupta, Advocate for the petitioners.

Mr. Akshay Jindal, Senior Advocate with
Mr. Tushar Kush Advocate for respondent Nos.1 to 5.ALKA SARIN, J. (Oral)

1. Present revision petition has been filed under Article 227 of the Constitution of India challenging the order dated 15.02.2018 whereby the application filed by the defendant Nos.1 and 2 (petitioners herein) under Order VII Rule 11 of the Code of Civil Procedure, 1908 has been dismissed.

2. The brief facts relevant to the present lis are that on 19.10.2015 plaintiff-respondent Nos.1 to 5 filed a suit for declaration that they are owners in possession of the house situated in village Khera, Tehsil Kalka, District Panchkula and further for a declaration that award dated 06.12.2014 passed by the Mega Lok Adalat was not binding upon the plaintiff-respondent Nos.1 to 5. Prayer was also made for a decree of permanent injunction. It was the pleaded case of the plaintiff-respondent Nos.1 to 5 that Jeet Singh, husband of plaintiff-respondent No.1 and father of plaintiff-respondent Nos.2 to 5, was

absolute owner and in possession of Bara measuring 02 Biswas comprised in Khewat Khatauni No.128/128, Khasra No.920//259 situated in village Khera, Tehsil Kalka, earlier District Ambala, now District Panchkula, which was allotted to Jeet Singh by the Government of Haryana on 13.07.1976. Defendant Nos.1 and 2 i.e. petitioners herein are the real brothers of Jeet Singh. Defendant-petitioner No.1 is stated to have sold his 02 Biswas plot, which was allotted to him on 13.07.1976 situated in village Khera to Jeet Singh for a sum of ₹5,000/- vide a writing dated 05.11.1993 in the presence of witnesses. The possession was also delivered to Jeet Singh. Later Jeet Singh constructed a house upon 04 Biswas of land i.e. 02 Biswas of land which was allotted to him and 02 Biswas which was purchased by him. Jeet Singh is stated to have expired on 05.02.1997. The electricity connection etc. all were in the name of Jeet Singh of the house constructed on the said land. However, the revenue entries were not changed and taking advantage of the revenue entries, defendant Nos.1 and 2 i.e. petitioners herein filed a collusive suit and without impleading the plaintiff-respondent Nos.1 to 5. A collusive decree under Section 19 of the Legal Services Authorities Act, 1987 was obtained. An award in the Mega Lok Adalat on 06.12.2014, corrected on 21.04.2015, was passed. The plaintiff-respondent Nos.1 to 5 were claiming relief of declaration that the award dated 06.12.2014 was not binding upon their rights. The defendant Nos.1 and 2 (petitioners herein) filed an application under Order VII Rule 11 CPC for rejection of the plaint on the ground that the suit was barred by limitation. Reply was filed to the said application. Vide the impugned order the application was dismissed. Hence, the present revision petition.

3. Learned counsel for the petitioners would contend that in para 13

of the plaint it had been stated that the cause of action first arose in the year 1976 and thereafter in 1993 and therefore the suit was clearly barred by limitation. Learned counsel for the petitioners has relied upon judgment of this Court in case of **Om Parkash & Anr. vs. Municipal Corporation, Faridabad & Ors. [2022 AIR CC 2460]** and order dated 13.01.2023 passed by the Hon'ble Supreme Court in **Special Leave to Appeal (C) No.1300 of 2023 [Municipal Corporation, Faridabad vs. Om Parkash & Ors.]**

4. *Per contra* learned senior counsel appearing on behalf of respondent Nos.1 to 5 would contend that the cause of action arose in 2015 when the land was transferred by way of an award passed by the Mega Lok Adalat on 06.12.2014, corrected on 21.04.2015, and prior to that there was no challenge to title of Jeet Singh or his possession. Learned senior counsel has further relied upon judgment of Hon'ble Supreme Court passed in **P. Kumarakurubaran vs. P. Narayanan & Ors. [2025 SCC OnLine SC 975]** and **Karam Singh vs. Amarjit Singh & Ors. [2025 SCC OnLine SC 2240]** to contend that the limitation is a mixed question of law and facts, which necessitates adjudication upon the evidence particularly in view of the fact that the challenge is to the award passed by the Mega Lok Adalat on 06.12.2014 corrected on 21.04.2015, when the cause of action arose.

5. I have heard learned counsel for the parties.

6. In the present case the judgments relied upon by learned counsel for the petitioners would not come to his aid as the issue of limitation in the present case would have to be adjudicated once the evidence has been led. Since the suit is for declaration based on title and the first time that there was any threat to the title of plaintiff-respondent Nos.1 to 5 was when the award was passed by the Mega Lok Adalat on 06.12.2014, corrected on 21.04.2015.

Even otherwise the argument of learned counsel for the petitioners that the cause of action firstly arose in 1976 cannot be accepted as in 1976 the plot was allotted to both the brothers i.e. Jeet Singh and Mahinder Singh and there was no challenge to the title of Jeet Singh and it was only in 1993 that Mahinder Singh sold his 02 Biswas of land to Jeet Singh and since 1993 till 2014-15 there was no challenge laid by anybody regarding possession of Jeet Singh over the plot in question. The cause of action arose only in 2014-15 and hence it would be a matter of evidence as to whether the suit is barred by limitation.

7. Hon'ble Supreme Court in the case of **P. Kumarakurubaran** (supra) has held as under:

13. In this backdrop, the approach of the High Court in reversing the well reasoned order of the trial Court warrants interference. The trial Court had rightly held that the issue of limitation necessitated adjudication upon evidence, rather to alienate the suit property and that the impugned transaction came to his knowledge only at a much later point in time. In such circumstances, the determination of limitation involved disputed questions of fact that could not be summarily decided without the benefit of trial. The High Court, however, proceeded to reject the plaint solely on a prima facie assumption that the suit was barred by limitation, without undertaking any examination as to whether the plea regarding the date of knowledge was demonstrably false or inherently improbable in light of the record. In the opinion of this

Court, such an approach amounts to an error of law and constitutes a misapplication of the well-established principles governing the exercise of power under Order VII Rule 11 CPC. For the same reasons, the decisions relied upon by the learned counsel for the respondents are inapplicable, being factually distinguishable.

14. It is also to be noted that the appellant has categorically averred in the plaint that he executed the registered power of attorney in favour of his father solely for the limited purpose of constructing a house and carrying out related activities. There is no express clause authorizing his father to sell the suit property to any person without the appellant's consent and knowledge. Yet, the appellant's father executed a sale deed in favour of his granddaughter, going beyond the scope of the power of attorney, which raises serious doubt about misuse of authority and potential fraud. Such assertions cannot be rejected in the application under Order VII Rule 11 CPC. Accordingly, we are of the view that the plaint discloses a cause of action which cannot be shut out at the threshold. Thus, the trial Court acted within its jurisdiction in refusing to reject the plaint and in holding that the matter ought to proceed to trial. The High Court, while exercising its revisional jurisdiction under Section 115 CPC, ought not to have interfered in the absence of any jurisdictional error or perversity in the trial court's order. Rejecting the

plaint where substantial factual disputes exist concerning limitation and the scope of authority under the Power of Attorney, is legally unsustainable.”

8. Further, Hon’ble Supreme Court in case of **Karam Singh** (supra) held as under:

15. *Before we assess the correctness of the impugned orders, we must remind ourselves of the basic principles governing rejection of a plaint under Order 7 Rule 117 of CPC. Here, the defendants seek rejection of plaint under clause (d) of Rule 11 (i.e., suit barred by law). Clause (d) makes it clear that while considering rejection of the plaint thereunder only the averments made in the plaint and nothing else is to be considered to find out whether the suit is barred by law. At this stage, the defense is not to be considered. Thus, whether the suit is barred by any law or not is to be determined on the basis of averments made in the plaint.*

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19. *That apart, where several reliefs are sought in suit, if any one of the reliefs is within the period of limitation, the plaint cannot be rejected as barred by law by taking recourse to Order 7 Rule 11 (d) of CPC.*

20. *Further, in “ N. Thajudeen v. Tamil Nadu Khadi & Village Industries Board, 2024 SCC Online SC 3037” relying on earlier decision of this court in “ C. Mohammad Yunus v. Syed Unnissa, AIR 1961 SC 808” it was held:*

“ 23. ...in a suit for declaration with a further relief, the limitation would be governed by the Article governing the suit for such further relief. In fact, a suit for a declaration of title to immovable property would not be barred so long as the right to such a property continues and subsists. When such right continues to subsist, the relief for declaration would be a continuing right and there would be no limitation for such a suit. The principle is that the suit for a declaration for a right cannot be held to be barred so long as Right to Property subsist” .

24. Even otherwise, though the limitation for filing a suit for declaration of title is three years as per Article 58 of the Schedule to the Limitation Act but for recovery of possession based upon title, the limitation is 12 years from the date the possession of the defendant becomes adverse in terms of Article 65 of the Schedule to the Limitation Act. Therefore, suit for the relief of possession was not actually barred and as such the court of first instance could not have dismissed the entire suit as barred by time” .

21. In our view, therefore, the plaint as it stood could not have been rejected on the ground that the suit as framed was barred by limitation. The view to the contrary taken by the High Court is erroneous in law.”

9. In view of the above, the present revision petition being devoid of any merits is accordingly dismissed. Pending applications, if any, also stand disposed off.

10. It is made clear that any observations made herein shall not be treated as an expression of opinion on the merits of the case.

27.11.2025
jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO