



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

122

RSA-542-2022 (O&M)

Date of decision : 11.11.2025

M/s. Paramount Infra Projects Pvt. Ltd.

..... Appellant

versus

Harchand Singh and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Shobit Phutela, Advocate and
Mr. Shaurya Mehra, Advocate
for the appellant.

PANKAJ JAIN, J. (Oral)

1. Plaintiff is in second appeal aggrieved of the judgment and decree passed by the Courts below.
2. Plaintiff filed suit for specific performance propounding agreement to sell dated 20.03.2006 qua suit land measuring 22 kanal 17 marlas as detailed out in the headnote of the plaint. As per the plaintiff, earnest money of Rs.60,69,000/- was paid by the plaintiff to the vendor-defendants. The land agreed to be sold was part of the joint khata. The vendor, i.e. first part of the agreement undertook to get the same partitioned. Plaintiffs further claimed that they always remained ready and willing to perform their part. Defendants having failed to get the land partitioned and execute the sale deed before the agreed date of 15.05.2006 extendable by grace period of 30 days, i.e. 15.06.2006. The plaintiffs remained ready and willing to perform their part. They remained present in the office of Sub-Registrar on 15.06.2006.



3. The suit was instituted on 30.04.2011.
4. Dehors the merits of the case, both the Courts below have non-suited the plaintiff on the ground of delay holding that the suit having been filed beyond the prescribed period of limitation, the same is liable to be dismissed.
5. Mr. Phutela has assailed the findings recorded by both the Courts below. He submits that time was not the essence of the agreement. He refers to clause 11 contained in the agreement to sell, as per which it was the vendor who was required to get the land partitioned prior to execution of the sale deed. Further he submits that even if the plaintiffs are held to be dis-entitled for the main relief of specific performance, alternate relief cannot be denied to them. Reliance is being placed upon Section 55 of the Transfer of Property Act read with Article 62 of the Limitation Act, 1963. The argument raised by Mr. Phutela is that the earnest money paid should be treated as a charge over the property and thus, limitation to file claim for the recovery of earnest money pursuant to the said charge would be governed by Article 62 of the Limitation Act which provides that the limitation to enforce payment of money secured by charge upon immovable property is 12 years and the same shall commence from the date when the money becomes due.
6. I have heard counsel for the appellant and have carefully gone through the records of the case.
7. Facts are not much in dispute. It is not disputed that the agreement to sell propounded by the plaintiff specifically provided for a date to get the sale deed registered. In view thereof, in terms of Article 54 of the Limitation Act, 1963 where the date is fixed for the



performance of the contract, the limitation shall commence from such date and shall be 03 years. Admittedly, the date fixed was 15.06.2006 wherein the suit was instituted in 2011. So far as, plea raised by Mr. Phutela regarding the earnest money being recoverable as charge is concerned, the same is misconceived. Chapter II of the Specific Relief Act, 1963 provides for relief of recovery in case of breach of contract. The prayer in the suit being for specific performance, the limitation would be governed by Article 54 and not by Article 62 of the Limitation Act, 1963.

8. Sections 54 and 55 of the Transfer of property Act are required to be read together. There is a difference between a sale and a contract of sale. As Section 54 of the Act mandates that a contract for sale by itself neither creates any interest nor charge in the property. Section 55(6)(b) contemplates a situation post sale deed and not prior thereto. Thus, the plea raised is misconceived and cannot be accepted.

9. Finding no merit in the present appeal, the same is ordered to be dismissed.

(PANKAJ JAIN)
JUDGE

11.11.2025
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No