



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

295

CR-5604-2019 (O&M)

Date of Decision: 15.01.2025

MIRA BAI

.... Petitioner

VERSUS

SUMAN DEVI

.... Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Vijay Sharma, Advocate for the petitioner.

Mr. Shashikant Gupta, Advocate for the respondent.

ALKA SARIN, J. (ORAL)

1. The present revision petition has been filed under Article 227 of the Constitution of India challenging the order dated 30.05.2019 (Annexure P-6) passed by the Additional Civil Judge (Senior Division), Narnaul vide which the application filed by the plaintiff-petitioner herein under Order 39 Rules 1 and 2 CPC was dismissed only on the ground that the suit filed by the plaintiff-petitioner itself is barred by limitation, as also the order dated 11.07.2019 (Annexure P-7) passed by the Additional District Judge, Narnaul vide which the appeal filed by the plaintiff-petitioner was dismissed.

2. Brief facts relevant to the present *lis* are that the plaintiff-petitioner herein filed a suit for declaration and permanent injunction to the extent that she was owner in possession of land measuring 50 square yards as described in the plaint and for rectification of the sale deed. The defendant-respondent herein appeared and filed written statement.

3. Learned counsel for the plaintiff-petitioner would contend that while deciding the application under Order 39 Rules 1 and 2 CPC virtually the suit has been dismissed holding the same to be barred by limitation and hence the same is not sustainable in law. Learned counsel would further contend that the only ground given in the impugned order passed by the Trial Court for denying the relief is that the suit is barred by limitation.

4. *Per contra*, learned counsel for the defendant-respondent would contend that the application had rightly been dismissed. However, he is not in a position to deny that while rejecting the relief in the application it has been held that the suit is barred by limitation.

5. Heard.

6. In the present case both the Trial Court and the First Appellate Court while deciding the application under Order 39 Rules 1 and 2 CPC have held that the suit itself is barred by limitation. In the considered view of this Court, the said finding could not have been returned while deciding the application for grant of ad-interim injunction (*supra*). In view of the finding already returned by both the Courts concerned in the application for grant of ad-interim injunction, the suit virtually has been dismissed. Accordingly, the impugned orders cannot be sustained in the eyes of law.

7. In view of the above, the present revision petition is allowed and both the impugned orders passed by the Trial Court and the First Appellate Court are set aside. The Trial Court is requested to decide the application under Order 39 Rules 1 and 2 CPC afresh in accordance with law.

8. Pending applications, if any, also stand disposed off.

15.01.2025

Aman Jain

NOTE:

(ALKA SARIN)

JUDGE

Whether speaking/non-speaking: Speaking

Whether reportable: Yes/No