



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

203

RSA-369-2017 (O&M)
Date of decision: 06.02.2025

JOGINDER SINGH (DECEASED) THROUGH LRS ..Appellant

Versus

AMARJIT SINGH ..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Surinder Garg, Advocate
for the appellant.

Mr. Nitesh Singla, Advocate
for respondent.

ANIL KSHETARPAL, J(Oral)

1. This regular second appeal has been filed by the defendant to assail the correctness of First Appellate Court's judgment, which in turn has reversed the judgment of the trial Court.

2. The plaintiff and defendant are brothers. On 21.05.1997, the various joint properties between the parties were distributed. It was agreed that Sh. Joginder Singh (appellant herein) would transfer 20 kanal land in favour of Sh. Amarjit Singh on receipt of sale consideration at the rate of Rs.1,83,000/- per acre. At the time of agreement, the total consideration of Rs.4,57,500/- was paid. The agreement is signed by all the parties. While deposing in the Court, marginal witnesses have proved the execution of document. The receipt of entire payment of Rs.4,57,500/- is acknowledged. The suit was filed on 05.10.2011. The trial Court dismissed the suit on the ground that it has been filed beyond the period of limitation, however, the First Appellate Court reversed the same on the ground that there was no

agreed date for execution of the sale deed, hence, the second part of column

No.3 of Article 54 of the Limitation Act, 1963 (in short ‘1963 Act’) would apply.

3. Article 54 of the 1963 Act is extracted as under:-

Description of suit		Period of limitation	Time from which period begins to run
XX	XX	XX	XX
54.	For specific performance of a contract.	Three years.	The date fixed for the performance, or, if no such date is fixed, when the plaintiff has notice that performance is refused.
XX	XX	XX	XX

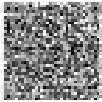
4. Learned counsel for the parties have been heard at length.

5. The appellant’s counsel submits that the suit was filed beyond the period of limitation and the plaintiff failed to prove that the payment was made.

6 Per contra, learned counsel for respondent submits that there was no notice of refusal to honour the agreement communicated by the appellant to the plaintiff. Hence, the limitation will begin to run only when notice of refusal to honour the agreement is issued. He further submits that defendant has not entered into witness-box to deny the execution of the agreement to sell.

7. This Court has considered the submissions of learned counsel representing the parties.

8. As per column No.3 of Article 54 of 1963 Act, the date from which the period of limitation will begin to run has been divided in two parties. Under first part, the limitation will begin to run from the date fixed for performance of agreement to sell. In this case, it will not be applicable,



whereas, under the second part, the period of limitation will begin to run from the date when the plaintiff has noticed that performance is refused. The defendant has never issued any noticed to the plaintiff refusing performance of the agreement to sell.

9. Moreover, the plaintiff has stated in his evidence that he requested his brother to execute the sale deed, however, he just put off the matter.

10. In the opinion of the Court, such action on the part of defendant would not amount to the notice of refusal to honour the agreement.

11. Additionally, defendant has not appeared in evidence, hence, adverse inference is required to be drawn against him. He was to prove that he never signed the agreement dated 21.05.1997.

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

13. Dismissed accordingly.

14. All the pending miscellaneous applications, if any, are also disposed of.

February 06th, 2025

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(ANIL KSHETARPAL)
JUDGE

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