

(116) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-548-2026

Date of Decision: 27.04.2026

BHATERI

...Petitioner

Vs.

SUSHIL AND ANOTHER

...Respondents

CORAM:- HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. Amit Kumar Goyal, Advocate
for the petitioner.

VIRINDER AGGARWAL, J. (Oral)

1. The present revision petition has been filed assailing the order dated 04.08.2025 passed by the learned Civil Judge (Junior Division), Sonapat, vide which the application for rejection of the plaint filed by the petitioner has been dismissed.

2. Briefly stated, the respondent-plaintiff instituted a suit seeking possession by way of specific performance of an agreement to sell dated 24.09.2007, along with consequential relief of declaration and permanent injunction. It was pleaded that, in terms of the agreement, the sale deed was to be executed and registered on or before 23.09.2008. However, on the stipulated date, defendant No. 1 apprised the plaintiff that certain litigation concerning the suit property was pending between her and one Ganga Dayal, and assured the plaintiff that the sale deed would be executed upon the conclusion of the said litigation. It was further averred that defendant No. 1 undertook to inform the plaintiff once the dispute was resolved and expressed her willingness to complete the transaction. According to the plaintiff, it was only in the first week of June 2017 that he came to know that the aforesaid

litigation had already been decided in the year 2015. Despite this, defendant No. 1 neither informed the plaintiff nor took any steps to execute and register the sale deed in his favour. The plaintiff thereafter issued a legal notice calling upon the defendant to perform her part of the contract, but the same evoked no response. Consequently, the present suit came to be filed. The petitioner-defendant moved an application under Order VII Rule 11 of the Code of Civil Procedure for rejection of the plaint, primarily on the ground that the suit, having been instituted after a delay of approximately nine years from the stipulated date for execution of the sale deed, was ex facie barred by limitation. The said application was contested by the plaintiff and, upon consideration, was dismissed by the learned trial Court vide the impugned order. Aggrieved against the said order, the petitioner-defendant No.1 has preferred the present revision petition.

3. Learned counsel for the petitioner-defendant No.1 contended that the learned Civil Court failed to properly appreciate the settled position of law on limitation, and that the suit, on the face of it, is hopelessly barred by time. It was argued that, in terms of the Limitation Act, 1963, a suit for specific performance of a contract is required to be instituted within a period of three years from the date fixed for execution of the sale deed, as stipulated in the agreement to sell. In the present case, the agreement dated 24.09.2007 fixed 23.09.2008 as the last date for execution and registration of the sale deed, whereas the suit came to be filed much later, after an inordinate delay of several years. Learned counsel submitted that such a suit, being ex facie time-barred, ought to have been rejected at the threshold under Order VII Rule 11 CPC. It was further contended that the learned Civil Judge committed a

material illegality and jurisdictional error in declining the application for rejection of the plaint, despite the bar of limitation being apparent from the averments made in the plaint itself. In support of the aforesaid submissions, reliance was placed upon the judgments of the Hon'ble Supreme Court in ***Shri Mukund Bhavan Trust and others vs. Shrimant Chhatrapati Udayan Raje Pratapsinh Maharaj Bhonsle and another***, 2024 INSC 1025, and ***India Evangelical Lutheran Church Trust Association vs. Sri Bala and Co.***, 2025 INSC 42, to contend that where a suit is clearly barred by limitation on the basis of the plaint averments, the Court is duty-bound to reject the plaint at the initial stage itself. On these premises, it was prayed that the impugned order be set aside. The relevant portion of the impugned order reads as under:

“9. It is settled law that at the time of deciding the application under Order 7 Rule 11 CPC averments in the plaint are to be considered. Truthfulness of the pleadings in the plaint is subject matter of trial and cannot be decided while considering the application under Order 7 Rule 11 CPC. Perusal of plaint shows that plaintiff has filed the present suit seeking relief of specific performance of agreement to sell dated 24.09.2007. It is specifically pleaded by the plaintiff that the litigation between the defendant no. 1 and Ganga Dayal etc. was pending before the various court and ultimately was decided court by the Hon'ble Supreme Court of India in 2015. At that time, the plaintiff was not competent to file the present suit and the same is an admitted fact of the parties regarding the pendency of above noted litigation.”

4. Learned counsel for the petitioner further contended that in ***India Evangelical Lutheran Church*** (supra), the Hon'ble Apex Court, while dealing with a similar set of facts, has clearly held that the pendency of litigation concerning the property, including disputes involving a tenant, does

not constitute a legal impediment to the institution of a suit for specific performance within the prescribed period of limitation. It was specifically pointed out that in paragraph 8.2 of the said judgment, the Hon'ble Supreme Court has observed that such pending disputes cannot be relied upon as a ground to defer the filing of a suit, nor can they operate to extend the period of limitation. Accordingly, the plaintiff cannot take shelter under the plea of pending litigation to justify the delay in approaching the Court. Paragraph No.8.2 is reproduced for ready reference”

8.2 Further, in paragraph 17 of the plaint, it has been averred that due to the cantankerous attitude and vexatious litigation of the tenant, the plaintiff could not file the suit for specific performance of the contract earlier, although the plaintiff was ready and willing to perform her part of the contract. This averment is totally alien to the filing of the second suit and has no bearing on the relief sought inasmuch as the tenant is not a party to the agreement dated 26.04.1991 and the filing and pendency of litigation vis-a-vis the tenant was not an impediment at all to file the earlier suit for specific performance of the aforesaid agreement.

In ***Shri Mukund Bhavan Trust (supra)*** it has been held as under:

“when an application to reject the plaint is filed, the averments in the plaint and the documents annexed therewith alone are germane. The averments in the application can be taken into account only to consider whether the case falls within any of the sub-rules of Order 7, Rule 11 by considering the averments in the plaint. The Court cannot look into the written statement or the documents filed by the defendants. The Civil Courts including Supreme Court cannot go into the rival contentions at that stage.”

5. In the present case, the plaint contains clear and specific pleadings to the effect that defendant No. 1 had represented to the plaintiff that she was unable to execute the sale deed due to pending litigation concerning

the suit property between herself and one Ganga Dayal. It is further pleaded that the defendant assured the plaintiff that the sale deed would be executed in terms of the agreement to sell once the said litigation came to an end, and that she would duly inform the plaintiff regarding her readiness to execute the sale deed. According to the plaintiff, the said litigation ultimately came to an end in the year 2015; however, defendant No. 1 neither informed the plaintiff about the conclusion of the litigation nor took any steps to execute and register the sale deed.

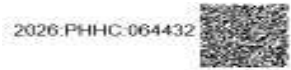
6. It is the specific case of the plaintiff that he acquired knowledge of the termination of the said litigation only in the first week of June 2017, whereupon he promptly issued a legal notice calling upon the defendant No.1 to perform her part of the contract. Since defendant No.1 failed to comply, the present suit was instituted thereafter. Thus, as per the plaintiff, the suit has been filed within the period of limitation, reckoned from the date of knowledge of the cessation of the alleged impediment. The facts of the present case are clearly distinguishable from the judgments relied upon by learned counsel for the petitioner. In the present matter, the pleadings disclose that there was ongoing litigation between the petitioner and Ganga Dayal in respect of the suit property, and from the plaint itself it is not clearly discernible as to the precise nature of the said litigation, nor whether its pendency constituted an absolute legal bar to the execution of the sale deed. These aspects, including the effect of such litigation on the enforceability of the agreement and the conduct of the parties, are mixed questions of fact and law, which necessarily require evidence and adjudication during trial.

7. Accordingly, it was correctly concluded that the suit cannot be held to be barred by limitation at this stage, and the application under Order VII Rule 11 CPC was rightly dismissed. Finding no merit in the revision petition, the same is dismissed.

(VIRINDER AGGARWAL)
JUDGE

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



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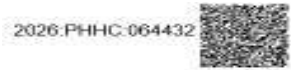
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Applications allowed.