



RSA-76-2007 (O&M)

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

RSA-76-2007 (O&M)

Reserved on : 04.05.2026

Date of Pronouncement : 08.05.2026

Date of Uploading : 14.05.2026

Bharat Sanchar Nigam Ltd.

.....Appellant

Vs.

Des Raj Pahwa

.....Respondent

*Whether only the operative part of the judgment is pronounced?**NO**Whether full judgment is pronounced?**YES***CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present : Ms. Anita Sharma, Advocate,
for the appellant.

Mr. Ishnoor Singh, Advocate, for
Mr. Vikram Singh, Advocate,
for the respondent.

SUDEEPTI SHARMA J.

1. The present appeal is preferred against the judgment and decree dated 20.07.2006 passed by learned Additional District Judge, Panipat, whereby appeal filed by the respondent against the judgment and decree dated 07.02.2006 passed by learned Civil Judge (Senior Division), Panipat, was allowed.

2. Brief facts of the case, as narrated in the civil suit, are that the appellant is the company incorporated under the Companies Act, 1956. All the assets and liabilities of the Department of Telecommunication were transferred to the appellant company w.e.f. 01.10.2000. Appellant filed civil



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suit for recovery of Rs.31,314/- on the ground that respondent applied for STD/PCO with the Department of Telecommunication, which was allotted to him and a written agreement in this regard was executed between the parties. Respondent was to deposit the amount so collected from the general public to the department and to get a commission from that amount. The respondent collected a sum of Rs.31,314/- from the general public, but failed to deposit the same with the appellant company, which led to disconnection of his STD/PCO for non-payment of arrears. Notice was served to him for the deposit of the amount in question, which led to the filing of civil suit for recovery of Rs.31,314/- from the respondent. Civil suit filed by the appellant company was decreed in its favour vide judgment and decree dated 07.02.2006 passed by learned Civil Judge (Senior Division), Panipat. Respondent filed appeal against the same, which was accepted by learned Additional District Judge, Panipat, vide its judgment and decree dated 20.07.2006. Hence, the present appeal.

3. Learned counsel for the appellant contents that learned Additional District Judge, Panipat has wrongly accepted the appeal filed by the respondent and reversed a well reasoned judgment and decree dated 07.02.2006 passed by learned Civil Judge (Senior Division), Panipat. She, therefore, prays that present appeal be allowed.

4. *Per contra*, learned counsel for the respondent submits that learned First Appellate Court has rightly accepted the appeal filed by the respondent. He, therefore, prays that present appeal be dismissed.



5. I have heard learned counsel for the parties and perused the whole record of this case with their able assistance.

6. The appellant by relying upon the documentary evidence tried to prove its case regarding the recovery of payment of the bills, which were due to the respondent by showing that there was a written agreement executed between the parties. The recovery was from Des Raj Pahwa, resident of House No.575, Model Town, Panipat, on account of running STD/PCO at Red Cross Bhawan, G.T. Road, Panipat, but the documents could not show as to whether the respondent is actually the person, who was to pay the amount of recovery. There is nothing on record to prove as to whether respondent is resident of House No.575 or 573-R, Model Town, Panipat, and as to whether he is the same person, who was allotted STD/PCO. The appellant has filed civil suit against Des Raj Pahwa, resident of 573L Model Town, Panipat, whereas in the documents Exhibits P4, P5 and P5/A and Exhibits P6 to P9, either the name of Des Raj Pahwa is stuck off or his address being resident of House No.575, Model Town, Panipat, has been mentioned. No agreement for running STD/PCO and agreement of commission is there on record. No allotment letter to show that STD/PCO was allotted to respondent is there. There is no document to prove allotment of STD/PCO to the respondent and the amount due towards him. The amount in question became due allegedly against the respondent for the year 1996 and legal notice for recovery of the same was given on 20.09.2003 as per Exhibit P-10. There is nothing on record that in between as to whether



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any steps were taken by the appellant to recover that amount. Further, the issue of limitation is decided in favour of the appellant in view of Article 112 of the Limitation Act, 1908. The civil suit for recovery of sum of Rs.31,314/- due in the year 1996, was filed in the year 2003 i.e after 07 years by taking the benefit of period of limitation of 30 years under Article 112 of the Limitation Act, 1908 to be available to the appellant company.

7. Hon'ble the Supreme Court in the judgment passed in **Bharat Sanchar Nigam Ltd. Vs. Pawan Kumar Gupta, 2015 INSC 665**, held that benefit of limitation of 30 years under Article 112 of the Limitation Act, 1908, is not available to government company. The relevant paragraphs of the said judgment are reproduced as under:-

“9. By a careful reading of the aforesaid Article, it makes abundantly clear, that a suit can be instituted by or on behalf of the Central Government. It is not the case of the appellant herein that it has filed the suit on behalf of the Central Government. This is for the reason that the appellant-company has instituted the suit on the basis of the instrument of Office Memorandum wherein the DoT has transferred its assets and actionable claims. It cannot be said that it has filed the suit on behalf of the Central Government because the appellant/plaintiff is a company, a distinctly independent and separate entity. Therefore, the reliance placed upon the aforesaid Article 112 of the Limitation Act to claim that there would be thirty years of limitation period as the asset transferred is an actionable claim due to the DoT is wholly misconceived in law. The other argument advanced by the learned senior counsel on behalf of the appellant-company that it is an agency or instrumentality under the Central Government which falls within the inclusive definition as defined under Section 3(8) of the General Clauses Act is wholly misconceived for the reason that Article 112 of the Limitation Act speaks of the Central Government or the State Government. Its agencies or instrumentalities are not incorporated under Article 112 of the Limitation Act.



*Such an argument is contrary to the Constitution Bench judgment of this Court in the case of **Padma Sundara Rao (Dead) and Ors. v. State of T.N. and Ors. reported in 2002(2) RCR (Civil) 373 : (2002) 3 SCC 533**. In paragraph 14 of the said judgment it is categorically stated that the legislative casus omissus cannot be supplied by judicial interpretative process and the Court cannot do the legislative functions. Para 14 of the said judgment reads thus:*

*“14. While interpreting a provision the Court only interprets the law and cannot legislate it. If a provision of law is misused and subjected to the abuse of process of law, it is for the legislature to amend, modify or repeal it, if deemed necessary. (See **Rishabh Agro Industries Ltd. v. P.N.B. Capital Services Ltd., (2000) 5 SCC 515**. The legislative casus omissus cannot be supplied by judicial interpretative process. Language of Section 6(1) is plain and unambiguous. There is no scope for reading something into it, as was done in Narasimhaiah's case, 1996(1) R.R.R. 640 : (1996) 3 SCC 88. In Nanjudaiah's case, (1996) 10 SCC 619, the period was further stretched to have the time period run from date of service of High Court's order. Such a view cannot be reconciled with the language of Section 6(1). If the view is accepted it would mean that a case can be covered by not only clauses (i) and/or (ii) of the proviso to Section 6(1), but also by a non-prescribed period. Same can never be the legislative intent.”*

(Emphasis supplied by this Court)

10. XXX XXX XXX XXX.

11. *In view of the aforesaid judgments of this Court, the legal contention urged by the learned senior counsel appearing on behalf of the appellant that the appellant being the agency or instrumentality of the Central Government is entitled to maintain the suit claims within thirty years as provided under Article 112 of the Schedule in the Limitation Act or alternatively, whatever the limitation period which was available for the Central Government, within three years from the date of execution of the agreement are wholly unsustainable in law.”*



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8. In view of the above, I do not find any merit in the present appeal and the same is hereby **dismissed**. The judgment and decree dated 20.07.2006 passed by learned District Judge, Panipat is upheld.

9. Parties are left to bear their own costs. Decree sheet be drawn.

10. Pending application(s), if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

08.05.2026

Virender

Whether speaking/non-speaking : Yes

Whether reportable : Yes/No