



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

(123)

RSA-2879-2025(O&M)Date of Decision:-**22.08.2025**

JAGPAL SINGH @ JAGPAL

... Appellant

Versus

RANBIR SINGH AND OTHERS

... Respondent

-.-

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present:- Mr. Kul Bhushan Sharma, Advocate,
for the appellant.

VIRINDER AGGARWAL, J. (Oral)

1. The present appeal is preferred against the judgment and decree passed by learned First Appellate Court, Palwal, vide which, the decree passed by learned Civil Judge was set aside.
2. Briefly, the suit was filed for cancellation of three transfer deeds dated 26.02.2007 and 16.03.2007. The appellant-petitioner contested the suit by moving an application under Order 7 Rule 11 of CPC for rejection of the plaint on the grounds that the deeds are registered deeds and act of registration amounts to a notice to the whole world, as such, the suit should have been filed within a period of three years as per Article 59 of Limitation Act from the date of registration of the deeds, whereas, the suit was filed after 14 years, so the suit is hopelessly barred.
3. Learned Civil Judge allowed the application and rejected the plaint.
4. Aggrieved by the order so passed, respondent/plaintiff preferred an appeal, which was allowed by learned Additional District Judge, Palwal. Now, the judgment and decree so passed is assailed on the grounds by the appellant that the learned First Appellate Court has not taken into consideration that registration of deed is a notice to the whole world as per law laid down in *Gajjan*



Singh and others versus Virsa Singh and others, 2007 (3) Civil Court Cases, 312 and limitation to challenge the registered deeds is three years and he relied upon decision of Supreme Court of India in *Udhav (dead) by LRs and another versus Pandharinath Kishanrao Tak and another, 2000 HRR 847*, where the suit filed for challenging sale deed after period of 17 years was held to be hopelessly time barred and he also relied upon the law laid by our own High Court in *Bhim Singh versus Satveer and Others in CR No.4569 of 2014* decided on **14.12.2015**, where the suit was held to be barred by limitation, when the suit was filed beyond the period of three years from the date of sale deed. In that case, it was held that father's sale cannot be impeached at any time. It has been done within a period of three years as the sale deed is not void but voidable at the instance of son if the property is ancestral and sale has been made without legal necessity.

5. The learned First Appellate Court has recorded its findings in para 12 and 12 of the impugned order, which reads as under:-

“12. In the present case, the trial Court has rejected the plaint of the plaintiff solely on the ground of limitation. However, the issue as to whether the appellant had prior notice or reason to be aware of the transaction at an earlier point of time, or whether the plea regarding the date of knowledge is credible, are matters that necessarily require appreciation of evidence. At this preliminary stage, the averments made in the plaint must be taken at their face value and assumed to be true. Once the date of knowledge is specifically pleaded and forms the basis of the cause of action, the issue of limitation cannot be decided summarily. It becomes a mixed question of law and fact, which cannot be adjudicated at the threshold stage under Order VII Rule 11 CPC. Therefore, rejection of the plaint on the ground of limitation without permitting the parties to lead evidence, is legally unsustainable. Reliance in this regard has been



placed upon the authority titled as “P. Kumarakurubaran vs. P. Narayanan & Ors.” 2025 INSC 598.

13. In the present case, it has been specifically pleaded in the plaint that the plaintiff got to know about the impugned transfer deed in the month of January, 2020 and the present suit has been filed in July, 2021 i.e. well within the period of limitation. The trial Court however, proceeded to reject the plaint solely on a prima facie assumption that that suit was barred by limitation, without undertaking any examination as to whether the plea regarding the date of knowledge was demonstrably false or inherently improbable in light of the record. In the opinion of this Court, such an approach amounts to an error of law and constitutes a misapplication of the well-established principles governing the exercise of power under Order VII Rule 11 CPC. So, on the basis of above discussion, the impugned order dated 23.09.2022 is hereby set aside, being not sustainable in the eyes of law. Consequently, the present appeal is allowed. A copy of this judgment and decree along with trial court record be sent to the concerned court forthwith. Both the parties are directed to appear before the concerned court on 01.08.2025.”

6. The main reliance of counsel for the appellant is on judgment of ***Gajjan Singh and others versus Virsa Singh and others, 2007 (3) Civil Court Cases, 312.*** In that case, the version of plaintiff with regard to the knowledge of the deeds was not disbelieved at the inception itself rather it was disbelieved after the plaintiff was given opportunity to lead evidence to prove his version and the evidence led by plaintiff did not find favour with the Court and furthermore, the plea of deemed notice was also pressed. The question of limitation is a mixed question of law and fact and in the present case, as has rightly been observed by the learned District Judge, Gurugram that plaintiff is claiming limitation from the date of knowledge of impugned transfer deeds. In such circumstances, plaintiff cannot be non-suited without affording him an opportunity to prove his version.



It is settled law that while deciding application under Order 7 Rule 11 of CPC, only version contained in the plaint is required to be taken into consideration. As per the version of the plaint, plaintiff claims cause of action from the date of knowledge. In such like cases, Hon'ble Apex Court in ***Daliben Valjibhai & Ors. Vs. Prajapati Kodarbhai Kachrabhai & Anr. , 2024 INC 1049*** has allowed the appeal and set aside the judgment and order passed by High Court in Second Appeal, whereby the application under Order 7 Rule 11 CPC has allowed. In that case, the application for rejection of plaint was filed on the grounds that suit is barred by limitation as in that case, the conveyance deed dated 04.12.2004 was challenged by the plaintiffs on 10.04.2017 and defendant moved application for rejection of the plaint that suit is barred by limitation as the same has been filed after a period of 13 years after execution of the sale deed and Hon'ble Apex Court has held that the appellants/plaintiffs have asserted that the suit was filed immediately after getting knowledge about the fraudulent sale deed, so the issue with regard to the suit being barred by limitation is a triable issue for which, reason, the plaint cannot be rejected at the threshold under Order 7 Rule 11(D) of CPC and in the present case, suit has been filed within a period of three years from the date of knowledge, as such, no grounds is made out to interfere in the well reasoned judgment of the learned First Appellate Court and opportunity is required to be provided to plaintiff to prove his version by leading evidence.

7. Accordingly, the present appeal is dismissed.

8. Pending miscellaneous application(s), if any, are also disposed of accordingly

22.08.2025
S. Pathania

(VIRINDER AGGARWAL)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No