



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

138

CR-2440-2025

Date of Decision: 24.04.2025

DALBARA SINGH SINCE DECEASED THROUGH LR AND ANR**.....Petitioners****Vs.****HARDEEP SINGH AND OTHERS****.....Respondents****CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA**

Present: Mr. Sandeep K. Sharma, Advocate with
Ms. Saroj Kumari, Advocate for the petitioners.

DEEPAK GUPTA, J. (ORAL)

Suit for possession by way of specific performance filed by the plaintiff-Sikander Singh (*now represented by his LRs of respondent Nos. 1 to 3*) was decreed way back in 1990. Appeal filed by the vendor-defendant Sikandar Singh was dismissed by the First Appellate Court on 09.09.1998. On 23.03.1999, first execution was filed by the plaintiff-decree holder, but the same was dismissed as withdrawn on 24.03.2008 by making a statement and in the meantime, the judgment debtor-vendor-Sikander Singh had transferred the property in favour of his sons, who are the petitioners herein. At the same time, it was noted that Regular Second Appeal was also filed by vendor, but the same was also dismissed on 19.12.2002. The decree holder moved an application for restoration of the earlier execution on 17.01.2014, but the same was dismissed on the ground of maintainability on 11.08.2017. In the meantime, he had also filed the second execution on 14.05.2014, in which the present petitioners the sons of the vendor, filed objections, but the same have been dismissed by the trial Court by way of the impugned order dated 01.04.2025, which has been assailed before this Court.



The only point raised by learned counsel for the petitioner herein that since the first execution had been filed on 25.03.1999 based upon the judgment dated 09.09.1998 of the First Appellate Court, therefore, the period of limitation was to start from the date of judgment of the First Appellate Court and as such, the second execution filed on 14.05.2014 was time barred. This Court is unable to accept the aforesaid contention because after the judgment dated 19.12.2002 passed in the Regular Second Appeal by this Court, the judgment of the trial Court as well as First Appellate Court, merged therein and as such, the limitation period is to be counted from the date of judgment dated 19.12.2002 passed by this Court in Regular Second Appeal, when the decree attained finality. As such, the execution filed on 14.05.2014 is held to be within limitation. Consequently, this Court does not find any merit in the present petition assailing the order dated 01.04.2025.

Dismissed.

24.04.2025

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(DEEPAK GUPTA)

JUDGE

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