



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

CR-2228-2022 (O&M)

Date of decision : 13.05.2025

Jagan Nath (Deceased) through LRs

...Petitioner

Vs.

Sushank and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sanjay Majithia, Senior Advocate
with Mr. Sumit Sinha, Advocate
for the petitioner(s).

Mr. Rajnish Gupta, Advocate
Mr. Sachin, Advocate
for respondents No. 1 and 2.

ANIL KSHETARPAL, J. (Oral)

1. The defendants assails the correctness of the First Appellate Court's order which in turn has reversed that of the trial Court. The defendant prayed for rejection of the plaint on the following two grounds:-

I. The suit is filed beyond the prescribed period of limitation.

II. The plaintiff does not have cause of action.

2. The trial Court allowed the application, which has been reversed by the First Appellate Court.

3. Learned Senior counsel representing the petitioner(s) submits that the plaintiff was born on 12.09.1992, whereas, he is challenging the judgment and decree dated 26.02.1983. He submits that the plaintiff has no locus to file



the suit. Moreover, the suit was filed on 01.11.2012, whereas, the limitation of challenging the judgment and decree is three years. It is further submitted that the plaintiff has only sought decree of declaration without seeking possession, hence, the suit is not maintainable in view of the proviso to Section 34 of the Specific Relief Act, 1963.

3. Learned counsel representing the respondents that the plaintiff has also challenged the correctness of sale deed executed on 18.08.1999 by filing a suit on 01.11.2012, whereas, the plaintiff attained the age of majority on 11.09.2010. Hence, the suit was filed within a period of three years after attaining the age of majority. He further submits that the plaintiff has disclosed the cause of action for filing the suit in para 26 of the plaint.

4. This Court has considered the submissions made by the learned counsel representing the parties.

5. Under Order VII Rule 11 of the Code of Civil Procedure, 1908, the plaint can be rejected only on limited grounds. There is no merit in the revision petition for the following reasons:-

I. The question of limitation is a mixed question of law and facts. Hence, it is not appropriate to reject the plaint at the threshold, particularly, when the plaintiff attained the age of majority on 11.09.2010, whereas, the suit was filed on 01.11.2012.

II. It is well settled that a plaint cannot be rejected in part. The plaintiff has also claimed that the sale deed executed by defendant No.1 in favour of defendant No.8 on 18.08.1999



is without legal necessity. Whereas, the plaintiff was born in 1992, hence, at this stage, it is not appropriate to record any final finding with regard to *locus standi* of the plaintiff to maintain the suit.

7. Proviso to Section 34 of the Specific Relief Act, 1963, provides that if the plaintiff is entitled to any further relief but fails to pray for the same, his plaint is required to be rejected. In this case, the plaintiff is claiming to be co-owner of the property. Hence, he has filed a suit for declaration.

8. Keeping in view the aforesaid discussion, no ground to interfere is made out.

9. Hence, the revision petition is dismissed.

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

13.05.2025

neeraj

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No