



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

(121)

CR No. 6426 of 2025

Date of Decision : 25.09.2025

Late Sh. Nand Kishore son of Hardayal since deceased through his Lrs.  
and another

...Petitioners

Versus

Radha Krishan

...Respondent

***CORAM: HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL***

Present: Mr. Pankaj Bains, Advocate and  
Mr. Lovekesh Mehta, Advocate  
for the petitioners.

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**Amarinder Singh Grewal, J. (Oral)**

1. The petitioners have filed the present Civil Revision petition under Article 227 of the Constitution of India for setting-aside the impugned order dated 07.08.2025 (Annexure P-7) passed by the learned Civil Judge (Jr. Divn.), Hisar in CS No. 1461/2020, whereby their application under Order VII Rule 11 read with Section 151 CPC for rejection of plaint was dismissed.

2. Brief facts of the case are that respondent-plaintiff had filed a suit for declaration against the petitioners-defendants challenging sale deed Nos. 5302 and 5305 both dated 13.12.1985 in favour of the petitioners-defendants as illegal, fraudulent and liable to be cancelled/set-aside along with consequential relief of permanent injunction and mandatory injunction restraining the petitioners-defendants from taking forcible possession or raising any construction in excess of the area as detailed in the plaint.



3. Notice of the said suit was given to the petitioners-defendants, who had appeared before the learned Civil Judge (Jr. Divn.), Hisar. During the pendency of the suit, an application under Order VII Rule 11 read with Section 151 CPC was filed by the present petitioners-defendants stating that the suit has been filed at a belated stage after 35 years and as such the same is barred by limitation and even the respondent-plaintiff is liable to pay the ad valorem court fee.

4. The learned Civil Judge (Jr. Divn.), Hisar dismissed the said application under Order VII Rule 11 CPC vide order dated 16.05.2024 (Annexure P-3) after citing the settled law in case titled as ***Suhird Singh Vs. Randhir Singh, AIR 2010 SC 2807***. Aggrieved against the said order, the petitioners-defendants had filed Civil Revision No. 3410 of 2024 before the High Court submitting that the trial Court has failed to examine that the suit filed by plaintiff Radha Krishan was filed beyond the period of limitation as the sale deed which was executed in the year 1985, has been challenged in the suit. The Co-ordinate Bench of this Court vide its order dated 06.03.2025 had disposed of the said Civil Revision petition with liberty to the petitioners-defendants to file an application before the trial Court for considering the objection regarding limitation.

5. Thereafter, the petitioners-defendants again filed the application under Order VII Rule 11 read with Section 151 CPC before learned Civil Judge (Jr. Divn.), Hisar, for re-consideration of the issue of limitation in view of the directions of the Co-ordinate Bench of this Court and the learned Court below again dismissed the said application holding that limitation is a



mixed question of law and fact which can only be determined after parties lead their evidence.

6. Learned counsel for the petitioners-defendants argues that the suit was clearly time barred as the sale deeds pertain to the year 1985, whereas the suit has been filed in the year 2020.

7. In view of the order proposed to be passed, notice is not being issued to the respondent as it would unnecessarily delay the proceedings and also entail additional expenses for the respondent.

8. I have heard learned counsel for the petitioners and have gone through the record with his able assistance.

9. As noticed above, the respondent-plaintiff has filed the suit for declaration and for permanent injunction thereby challenging the sale deeds pertaining to the year 1985. It is well settled that while deciding application under Order VII Rule 11 CPC, only the averments in the plaint are relevant. With regard to the plea raised by the petitioners-defendants regarding the suit being time barred, it is a mixed question of law and fact and cannot be adjudicated upon without appreciating the evidence, which is yet to be led by the parties. The plea raised by the petitioners-defendants cannot be looked into, at this stage. The plaint can be rejected only if, on a plain reading of the plaint, it discloses no cause of action or is barred by law. Whether the suit is actually barred by limitation is a mixed question of law and fact and as already observed, cannot be adjudicated without appreciating evidence of parties.



10. Further, this Court is of the considered view that while deciding application under Order VII Rule 11 CPC, the defence or stand taken by the petitioners-defendants with regard to limitation is wholly immaterial. The Court, at that stage, is required to confine itself only to the averments made in the plaint, and it is only when such averments do not disclose a cause of action or when, on a plain reading thereof, the suit appears to be barred by law, that the plaint can be rejected. On this point, this Court takes the note of the judgment of the Hon'ble Supreme Court of India in ***P.V. Guru Raj Reddy Rep. By GPA Laxmi Narayan Reddy and another Vs. P. Neeradha Reddy and others***, 2015(2) RCR(Civil) 43.

11. Thus, this Court finds no merit in the prayer for setting-aside the order dated 07.08.2025 (Annexure P-7) passed by the learned Civil Judge (Jr. Divn.), Hisar.

12. Finding no illegality in the impugned order dated 07.08.2025 (Annexure P-7), the present revision petition, being devoid of merit, is accordingly dismissed.

13. Pending miscellaneous application, if any, also stands disposed of.

September 25, 2025  
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(AMARINDER SINGH GREWAL)  
JUDGE

*Whether speaking/reasoned : Yes*

*Whether reportable : No*