



237 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-4716-2022

Date of decision : 01.10.2025

GURMAIL SINGH THROUGH HIS LRS AND OTHERS

....Petitioners

Versus

AMRIT KAUR THROUGH HER LRS AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Harsh Aggarwal, Advocate
for the petitioners.

Mr. Prateek Mahajan, Advocate and
Ms. Nikita Goel, Advocate and
Mr. Mayank Vashishth, Advocate
for respondents No.(i) and (ii).

PANKAJ JAIN, J. (ORAL)

The present revision petition is directed against order dated 22.09.2022 passed by Civil Judge (Junior Division), Sangrur, whereby application filed by the petitioner under Order VII Rule 11 CPC, stands rejected.

2. This Court while issuing notice of motion, passed a detailed order on 27.10.2022, which reads as under:

“Learned counsel for the petitioners contends that vide Order dated 22.09.2022 passed by the Court of learned Civil Judge (Jr. Divn.), Sangrur, whereby, an application filed under Order 7 Rule 11 CPC, at the instance of petitioners-plaintiffs for rejection of the counter claim submitted by the respondent-defendant has been wrongly dismissed. The primary grouse of the petitioners is

regarding the observations made by the learned trial Court in para-7 and 8 of the impugned order, the same are reproduced hereunder for reference:

“7. Both the counsels have heard and record has been perused minutely. Perusal of the record reveals that as far as the validity of the compromise is concerned and period of limitation is concerned, once said compromise have accepted by the Hon'ble High Court vide Judgment dated 17.01.2019 in RSA No.18/1996 and 619/1996 then this Court has no authority to again re-examine the same issue to the effect that whether the compromise is signed by all or whether it is registered or unregistered or whether it creates any right in favour of the counter claimant or not. The applicant is having the remedy to challenge said order passed by the Hon'ble High court before the higher authority as per law. 8. As far as the question of limitation and cause of action is concerned same are mixed question of law and fact and it would not be just and proper to reject the counter claim merely on the ground of limitation. Moreover, once Hon'ble High Court has given a right to the counter claimant on 07.01.2019 then the present counter claim cannot be held to be barred by limitation.”

It has been contended on behalf of petitioners that the observations made in para-7 of the impugned order as regards the binding effect of the judgment dated 17.01.2019 passed in RSA No.18/1996 and 719/1996, based on compromise dated 20.01.2008 are going to cause serious prejudice to the rights of his client. He is also aggrieved of the observations made by the learned trial Court as recorded that the petitioners-plaintiffs have their remedy to challenge the order dated 17.01.2019 passed by this Court before the higher authority as per law. In order to sort out his grievances, learned counsel for the petitioners, submits that the compromise dated 20.01.2008 which was the basis of passing of the judgment dated 17.01.2019, could not be held to be binding on the rights of

his client as the same was never signed by them nor they were even party to it as such, the trial Court could have ordered framing of an additional issue in this regard, rather than commenting upon merits of the substantive plea. He also submits that though in para-8 of the impugned order, the learned trial Court has recorded that the question of limitation and cause of action is a mixed question of law and facts, yet it has gone wrong while recording further that the counter claim filed at the instance of respondent-defendant cannot be held to be barred by limitation. In this regard, he submits that instead of making such observation on the point of limitation, the trial Court could have framed an additional issue as regards limitation.

I have gone through the records and I find substance in the limited submissions made on behalf of learned counsel for the petitioners that instead of making observations regarding the maintainability of the counter claim on the issue of limitation, learned trial Court could have framed a specific issue in this regard, the same being a mixed question of law and fact. As regard the remedy to question the compromise dated 20.01.2008 which has been the basis of judgment dated 17.01.2019 as pointed out, the same has already been held to be not binding on the non-signatories or the parties who have not signed the aforesaid compromise even as per the decision dated 17.01.2019 passed by this Court in the RSA No.18/1996 and 619/1996. In my view, the trial court could have framed an issue- in this regard as well.

Notice of motion for 04.11.2022.

Dasti process only.

Let respondent No.1 be served through the counsel representing her before the learned trial Court. It is made clear that notice is being issued on the limited aspect of the grievance raised qua reasoning recorded in para Nos.7 and 8 of the impugned order only.

In the meanwhile, trial Court is requested to adjourn the date of hearing beyond the date fixed by this Court.

To be shown in the urgent list.”

3. Keeping in view the nature of controversy involved in the present revision petition, this Court deems it appropriate to dispose off the present revision petition with the direction to the Trial Court to frame issue w.r.t. limitation, validity and binding effect of compromise dated 20.01.2018 along with other issues and to adjudicate thereupon, in accordance with law.

October 01, 2025

(Pankaj Jain)

Dpr

Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No