courtkutchehry.com

Company: Sol Infotech Pvt. Ltd.
Website: www.courtkutchehry.com
Printed For:
Date: 08/11/2025

(2009) 04 P&H CK 0347

High Court Of Punjab And Haryana At Chandigarh

Case No: None

Prem Chand APPELLANT

Vs

Shiv Singh RESPONDENT

Date of Decision: April 21, 2009

Acts Referred:

- Constitution of India, 1950 - Article 227, 23

Hon'ble Judges: Jaswant Singh, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Jaswant Singh, J.
Petitioner-defendant Prem Chand, by filing this revision petition under Article 227 of the Constitution of India, has challenged the order dated 29.11.2008, passed by the learned Additional District Judge, Jalandhar, whereby in exercise of appellate jurisdiction, the judgment and decree dated 31.10.2007 passed by the learned trial Court dismissing the suit for recovery, filed by the respondent-plaintiff-Shiv Singh, was set aside and the case was remanded back to the trial Court to decide it afresh on merits.

2. Facts which emerge are that the petitioner-defendant executed a pronote and receipt dated 2.5.2000 for a sum of Rs. 40,000/- in lieu of loan taken from plaintiff-respondent-Shiv Singh. The petitioner-defendant had also agreed to pay interest @ 2% per annum. Since the loan was not repaid, plaintiff-respondent filed a suit for recovery of Rs. 61,600/- (including interest @ 1.5% per annum) on 2.5.2003 alongwith an application for seeking the permission of the Court for making good the deficiency in payment of Court fees as the proper Court fees was not available in the Treasury.

3. Upon pleadings of the parties issues were framed. Issue No. 2 was "Whether the suit is time barred? OPD."

4. The learned trial Court after hearing both sides dismissed the suit holding that it was barred having been filed one day beyond the 3-year period of limitation.

5. Aggrieved against the dismissal of his suit respondent-plaintiff filed an appeal, which stood allowed by the learned appellate Court vide impugned order dated 29.11.2008, in the manner detailed hereinabove. Hence the present revision petition.

6. After hearing the learned Counsel for the petitioner and perusing the record I find no illegality in the impugned order.

7. It was held by the appellate Court that as per Article 23 of the Limitation Act, for the purpose of recovery, a period of 3 years is provided and as per Sub-section (1) of Section 12 of the Limitation Act, 1963, the day from which the limitation of three years commences is required to be excluded. The respondent-plaintiff on the basis of pronote dated 2.5.2000 filed the suit on 2.5.2003 itself, i.e. within limitation and hence the suit was held to be maintainable.

8. I am in agreement with the reasoning given by the learned appellate Court. Learned Counsel for the defendant-petitioner has not been able to point out any illegality in the impugned order which may call for interference by this Court in the present revision petition.

9. Dismissed.