

(1990) 09 P&H CK 0119
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 347 of 1990

Hem Raj Sharma and Sons and Another	APPELLANT
Vs	
Madan Lal Chaman Lal	RESPONDENT

Date of Decision : 03-09-1990

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 6 Rule 17, 115

Citation : (1990) 98 PLR 624

Hon'ble Judges : S.S. Sodhi, J

Bench : Single Bench

Advocate : Jayshree Thakur, for the Appellant; M.L. Merchea, for the Respondent

Judgement

S.S. Sodhi, J.—In a suit for rendition of accounts and payment of the amount, as may be found due thereafter, the plaintiffs were permitted to amend the plaint to claim instead a specific amount. That is what is sought to be challenged in revision here on the ground that the date on which the amendment was asked for, suit for the recovery of the said amount would have been barred by time.

2. The contention of the counsel for the petitioner to this effect being founded upon Chaubey Sushil Chandra Vs. Raj Bahadur, All where, it was held that in a suit for rendition of accounts, the claim instead of a specific amount by amendment would change the nature of the suit and such amendment should not, in the absence of special circumstances be allowed, particularly where a valuable right has accrued to the other party by limitation.

3. Reliance was also placed upon Aisha and Ors. v. State of Jammu and Kashmir AIR 1978 J&K 34 where a similar view was expressed while dealing with the prayer for amendment of the plaint at the stage of Second Appeal.

4. A binding judicial precedent is however, provided by the judgment of this Court in Bishan Sarup & Brs. and Anr. v. Smt. Tara Wanti alias Tara Devi and Ors. 1973 Rev. L.R. 780 where, in a similar case for rendition of accounts and payment of money found due thereafter, amendment of the plaint was allowed to

enable the plaintiff to claim instead a specific sum of money and that too when on the date of the application for such amendment, a suit for recovery of the amount would have been barred by time. If it was held that even though a suit brought on the date when the application for amendment was made, would be barred by time it would be no ground to disallow such amendment as the cause of action remained the same and the amendment merely furnished, before the conclusion of the trial, what the Court had been asked to ascertain by recourse to rendition of accounts.

5. This precedent clearly covers the point in issue here and as is now well settled, where there is a conflict of views that expressed by our own Court, must be preferred.

6. No exception can thus be taken to the impugned order of the trial Court allowing the amendment. This revision petition is accordingly dismissed with costs. Counsel fee Rs. 300/-.

7. Parties are directed to appear before the trial court on October 8, 1990,.