
(1998) 02 P&H CK 0085
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 5098 of 1996

Om Suta

APPELLANT

Vs

Sukhdev Singh

RESPONDENT

Date of Decision : 09-02-1998

Acts Referred:

Citation : (1998) 2 ICC 716 : (1998) ISJ 530 : (1998) 2 RCR(Civil) 311

Hon'ble Judges : Sat Pal, J

Advocate : Mr. Bhag Singh, Advocate., Advocates for appearing Parties

Judgement

Sat Pal, J.

1. This petition has been directed against the order dated 3.8.1996 passed by Additional Civil Judge (SD), Jagadhri. By this order, the application for impleading Sham Kaur and Om Suta as LR's of defendant Tarawati deceased has been allowed.

2. Mr. Bhag Singh, the learned counsel appearing on behalf of the petitioners submitted that the LR's of deceased judgment debtor Tarawati have been impleaded after the expiry of more than 12 years from the date of passing the decree and as such the application for impleading the LR's of the judgment debtor was barred by Article 136 of the Indian Limitation Act, 1963. In support of his submission, the learned counsel placed reliance on a judgment of Bombay High Court in Presidency Industrial Bank Limited v. The Hindustan Leather Limited, AIR 1969 Bombay 84 and a judgment of this Court in Sumer Singh v. Kanshi Ram, 1994(1) R.R.R. 48 : 1993 PLJ 467.

3. Mr. Rakesh Bhatia, the learned counsel appearing on behalf of the respondents, however, submitted that the limitation to bring on record legal representatives of a deceased defendant or respondent is governed by Article 120 of the Limitation Act and within a period of 90 days an application to bring on record the LR's can be filed. In support of his submission the learned counsel has placed reliance on a judgment of this Court in Subash Chander Kumar v.

Prabhu Dayal, 1994(1) R.R.R. 732 : 1994 PLJ 443.

4. I have given my thoughtful consideration to the submissions made by the learned counsel for the parties and have perused the record. The admitted facts of the case are that the suit filed by the respondent/Decree Holder was decreed against deceased defendant Tarawati on 24.8.1982. Defendant Tarawati died on 8.8.1992. The execution application was filed by the Decree Holder on 24.1.1994. During the pendency of the execution application, the Decree Holder filed the application for impleading the legal representatives of Tarawati on 14.11.1994. Article 136 of the Indian Limitation Act, 1963 provides a period of 12 years for the execution of any decree from the time when the decree becomes enforceable. Admittedly, in the present case the decree was passed on 24.8.1982 and the application for execution of this decree could be filed on or before 23.8.1994. In the present case, the application for impleading legal representatives of deceased Tarawati was filed on 14.11.1994 i.e. beyond the period of 12 years from the date of passing of the decree. In view of the said fact, the execution application against the legal representatives of deceased Tarawati judgment debtor is barred by Article 136 of the Indian Limitation Act insofar as the legal representatives of deceased judgment debtor Tarawati are concerned.

5. The decision of this Court in the case of Subash Chander Kumar (*supra*) relied upon by the learned counsel of the respondents is not applicable to the facts of the present case as that case did not pertain to the execution of a decree.

6. In view of the above discussion, I am of the opinion that the impugned order cannot be sustained. Accordingly, the petition is allowed and the impugned order dated 3.8.1996 is set aside. Consequently, the application of the Decree Holder for bringing on record the legal representatives of judgment debtor deceased Tarawati, stands dismissed.