

(2013) 10 SHI CK 0037

In the High Court Of Himachal Pradesh

Case No : Regular Second Appeal No. 4214 of 2013-D

Rulda Ram

APPELLANT

Vs

Sanju Ram and Others

RESPONDENT

Date of Decision : 15-10-2013

Acts Referred:

Citation : (2013) 10 SHI CK 0037

Hon'ble Judges : Rajiv Sharma, J

Bench : Single Bench

Advocate : Sunil Mohan Goel, for the Appellant;

Final Decision : Dismissed

Judgement

Rajiv Sharma, J.—This Regular Second Appeal is directed against the judgment and decree dated 29.5.2013 passed by the District Judge, Kullu in Civil Appeal No. 60 of 2011. "Key facts" necessary for the adjudication of this Regular Second Appeal are that respondents-plaintiffs (hereinafter referred to as "plaintiffs" for convenience sake) filed a suit seeking decree for declaration that they are owners in possession of the suit land comprised in Khasra Nos. 13, 94, 68, Khata Khatauni No. 45 min/83 min measuring 0-13-15 hectares as recorded in the copy of jamabandi for the year 2004-05 and the mutation of exchange bearing No. 3179 dated 20.8.2002 is illegal, null and void. They have also sought consequential relief of injunction restraining appellants-defendants (hereinafter referred to as "defendants" for convenience sake) from alienating the suit land. The suit land comprised of fruit bearing trees. Plaintiffs have sold the fruits of suit land in favour of defendants from the year 2002 to 2007 by way of an oral agreement. However, in the last week of July, 2008, defendant again entered into the suit land and started plucking fruits from the suit land. Plaintiffs objected to the same. Defendant disclosed to them that suit land has been exchanged in the revenue record and now he is owner in possession of the suit land. Plaintiffs inquired from the Patwari Halqua who disclosed that mutation No. 3179 dated 20.8.2002 was entered in favour of defendant qua the suit land. According to the

plaintiffs, mutation No. 3179 was got entered by the revenue authorities behind the back of plaintiffs. Cause of action accrued to plaintiffs against defendant firstly in the month of July, 2008 and finally prior to the institution of the suit when plaintiffs came to know about mutation No. 3179 dated 20.8.2002.

2. Suit was contested by defendant. According to the defendant, fruit bearing trees on the suit land have been planted by him. He has denied that plaintiffs sold fruits of the suit land to defendant from 2002 to 2007. According to him, plaintiffs have exchanged the suit land with the defendant and mutation No. 3179 was entered in this regard on 20.8.2002. Defendant is in cultivating possession of the suit land and has improved the suit land. He has raised orchard over the suit land. He has denied that plaintiffs visited the suit land in the month of July, 2008.

3. Civil Judge (Senior Division), Manali framed issues on 25.3.2009. He decreed the suit on 8.11.2011. Defendant preferred an appeal before the District Judge, Kullu. He dismissed the same on 29.5.2013. Hence, the present appeal.

4. Mr. Sunil Mohan Goel has vehemently argued, on the basis of the substantial questions of law framed, that the suit was barred by limitation. He then contended that both the courts below have not correctly appreciated the evidence led by the parties. He lastly contended that plaintiffs should have challenged the mutation attested on 20.8.2002 before the revenue court.

5. I have heard Mr. Sunil Mohan Goel and have perused the judgments passed by both the courts below meticulously.

6. PW-1 Sanju Ram has deposed that plaintiffs are owners in possession of the suit land. Suit land comprises of fruit bearing trees. Plaintiffs had sold fruits of the suit land in favour of defendant from the year 2002 to 2007. Defendant again entered into the suit land and started plucking the fruits from the suit land in the last week of July, 2008. It was objected by the plaintiffs. Defendant disclosed to them that the suit land has been exchanged in the revenue record and he has become owner of the suit land. Plaintiffs made inquiries from the Patwari Halqua. He disclosed that mutation No. 3179 dated 20.8.2002 has been entered in favour of defendant qua the suit land. According to him, mutation No. 3179 was entered behind the back of the plaintiffs. Cause of action has arisen to the plaintiffs firstly in the month of July, 2008 and finally prior to the institution of the suit when plaintiffs came to know about mutation No. 3179 dated 20.8.2002. In his cross-examination, he has denied that any agreement had taken place qua the fruits of the suit land with defendant. He has denied that defendant was put in possession of the suit land and he improved the suit land.

7. PW-2 Daulat Ram was the Pradhan of Shanag Panchayat from 2002 to 2005. According to him, Smt. Kheki Devi, mother of Minu Ram expired 25-30 years ago. Mutation Ex. P-5 bore his signatures. Signatures of other people were not affixed in his presence. He has denied that Minu Ram and Shyam Chand had also affixed their signatures on mutation Ex. P-5 in his presence.

8. PW-3 Pratap Singh was the Patwari. According to him, as per record, Khasra No. 3006 (old) 2104 (new) was Gair Mumkin Darya Beas whereas Khasra Nos. 3402, 3410, 3411 and 3406 (old) and 13, 68 and 94 (new) were Bagicha Bathal Faldar.

9. DW-1 Rulda Ram has deposed that he has exchanged his land comprised of Khasra No. 3006 (old) 2104 with the plaintiffs comprising Khasra Nos. 3402, 3410, 3411, 3406 (old) and 13, 68 and 94 (new). Ex. P-5 has been entered in this regard. He was in cultivating possession of the suit land. He has raised orchard. Plaintiffs never visited the suit land in the year 2008. In his cross-examination, he has admitted that Smt. Khekhi Devi expired in the year 1984. He has also admitted that mutation Ex. P-5 did not bear signatures of Sevati Devi. He has denied that he has entered into an oral contract with the plaintiffs to pluck fruits from the suit land. He has admitted that land given to plaintiffs in exchange is Gair Mumkin Darya and volunteered stated that at the time of exchange the land exchanged was all right and subsequently damaged in floods.

10. DW-2 Nathu Ram was the Kanungo. He has deposed that mutation No. 3179 Ex. DW-1/A (Ex. P-5) was attested in his presence and in presence of witnesses Shyam Chand and Daulat Ram. He has admitted in his cross-examination that Khekhi Devi had expired at the time of mutation and no entry has been made in this regard by the Tehsildar in mutation. He has also admitted that at the time of attestation of mutation Smt. Sevati Devi, who was owner of 1/3rd of the suit land, was not present on the spot.

11. DW-1 Rulda Ram has admitted that Khekhi Devi expired in the year 1984. There is no entry to the effect that Smt. Khekhi Devi was duly served and despite that she was not present. Entry has been made on 20.8.2002. Smt. Khekhi Devi died in the year 1984. Smt. Sevati Devi was owner of 1/3rd of the suit land. Even as per statement of DW-2 Nathu Ram, she was not present at the time of attestation of mutation. Alleged exchange is an oral exchange. The value of the property exchanged was more than Rs. 100/-. However, it was not registered. It has come in the statement of PW-1 Sanju Ram that the suit land was earlier in possession of his father and his father had planted fruit bearing trees over the same. Assistant Collector IInd Grade has marked the presence of Minu Ram, Shyam Chand and Sevati Devi in Ex. P-5. However, Sevati Devi had expired at the time of attestation of mutation in the year 2002. PW-2 Daulat Ram has denied that in his presence Minu Ram and Shyam Chand have put their signatures or thumb impressions over the mutation. It is also not believable that plaintiffs would exchange the land which is situated in the river bed. It was not a valid exchange since the value of the property was more than Rs. 100/- and was required to be registered. Cause of action has arisen to the plaintiffs in the month of July, 2008 when defendant tried to pluck the fruits and when plaintiffs knew about the mutation No. 3179 dated 20.8.2002. Right to sue is to be taken from the date when rights of the plaintiffs were threatened. It is settled law that mutation does not confer any title. Cause of action would arise when the rights of

the plaintiffs are threatened and not from the date when the revenue entries were changed.

12. Both the courts below have rightly held that there was no valid exchange. Exchange was never registered. Mutation was attested behind the back of plaintiffs. Smt. Khekhi Devi had already died in the year 1984 and Sevati Devi had also died at the time of attestation of mutation. Suit was within limitation. Plaintiffs were not required to challenge the revenue entries till their rights were threatened. The civil court was competent to adjudicate and decide the issue of attestation of mutation No. 3179 dated 20.8.2002 since the same has been attested in violation of principles of natural justice.

13. In AIR 1930 270 (Privy Council) expression "right to sue" has been succinctly explained as under:-

There can be no "right to sue" until there is an accrual of the right asserted in the suit and its infringement or at least clear and unequivocal threat to infringe that right by the defendant against whom the suit is instituted. No doubt Mr. Koklan's right to the property arose on the death of Tara Chand, but in the circumstances of this case their Lordships are of opinion that there was no infringement of, or any clear and unequivocal threat to her rights till the year 1922, when the suit, as stated above, was instituted.

14. In (Lala) Shiam Lal Vs. Mohamad Ali Asghar Husain and Others, , learned single Judge has held that a mere entry of names does not debar the person against whom the entry is made for all time to come from suing for a declaration. Any new invasion of rights which amounts to a fresh denial of title confers on the owner in possession a fresh right to sue. The right to sue accrues when there is an accrual of the right asserted in the suit and its infringement or at least a clear and unequivocal threat to infringe that right by the defendant against whom the suit is instituted.

15. In Mst. Rukhmabai Vs. Lala Laxminarayan and Others, , their Lordships of Hon"ble Supreme Court have held that there can be "right to sue" until there is an accrual of the right asserted in the suit and its infringement, or at least a clear and unequivocal threat to infringe that right, by the defendant against whom the suit is instituted. Their Lordships have held as under:-

31. The argument on the question of limitation is put thus: The plaintiff, respondent herein, had knowledge of the fraudulent character of the trust deed as early as 1917 or, at any rate, during the pendency of the partition suit between Rakhmabai and Chandanlal instituted in the year 1929, and the suit filed in 1940, admittedly after six years of the said knowledge, would be barred under Art. 120 of the Limitation Act. Article 120 of the Limitation Act reads:

This Article was subject to judicial scrutiny both by the Judicial Committee as well as by the High Courts of various States. The leading decision on the subject is that of the Judicial Committee in AIR 1930 270 (Privy Council) Therein Sir Benod

Mitter observed:

There can be no "right to sue" until there is an accrual of the right asserted in the suit and its infringement, or at least a clear and unequivocal threat to infringe that right, by the defendant against whom the suit is instituted."

32. The said principle was restated and followed by the Judicial Committee in AIR 1931 9 (Privy Council) and in AIR 1931 89 (Privy Council) . The further question is, if there are successive invasions or denials of a right, when it can be held that a person's right has been clearly and unequivocally threatened so as to compel him to institute a suit to establish that right. In Pothukutchi Appa Rao and Others Vs. Secretary of State for India in Council, a Division Bench of the Madras High Court had to consider the said question. In that case, Venkatasubba Rao, J., after considering the relevant decisions, expressed his view thus:

There is nothing in law which says that the moment a person's right is denied, he is bound at his peril to bring a suit for declaration. The Government beyond passing the order did nothing to disturb the plaintiff's possession. It would be most unreasonable to hold that a bare repudiation of a person's title, without even an overt act, would make it incumbent on him to bring a declaratory suit.

He adds at p. 199:

It is a more difficult question, what is the extent of the injury or infringement that gives rise to, what may be termed, a compulsory cause of action?

16. Their Lordships of the Hon"ble Supreme Court in C. Mohammed Yunus Vs. Syed Unissa and Others, have held that a suit for declaration of a right and an injunction restraining the defendants from interfering with the exercise of that right is governed by Article 120. Under the Article there can be no right to sue until there is an accrual of the right asserted in the suit and its infringement or at least a clear and unequivocal threat to infringe that right. Their Lordships have held as under:

7. The surplus income of the institution is distributed by the trustees and the plaintiffs are seeking a declaration of the right to receive the income and also an injunction restraining the defendant from interfering with the exercise of their right. The High Court held that plaintiff No. 1 was at the date of the suit 19 years of age and was entitled to file a suit for enforcement of her right even if the period of limitation had expired during her minority within three years from the date on which she attained majority by virtue of Ss. 6 and 8 of the Indian Limitation Act, Apart from this ground which saves the claim of the first plaintiff alone, a suit for a declaration of a right and an injunction restraining the defendants from interfering with the exercise of that right is governed by Art. 120 of the Limitation Act and in such a suit the right to sue arises when the cause of the action accrues. The plaintiffs claiming under Fakruddin sued to obtain a declaration of their rights in the institution which was and is in the management of the trustees. The trial judge held that the plaintiffs were not "in

enjoyment of the share"" of Fakruddin since 1921 and the suit filed by the plaintiffs more than 12 years from the date of Fakruddin's death must be held barred but he did not refer to any specific article in the first schedule of the Limitation Act which barred the suit. It is not shown that the trustees have ever denied or are interested to deny the right of the plaintiffs and defendant No. 2; and if the trustees do not deny their rights, in our view, the suit for declaration of the rights of the heirs of Fakruddin will not be barred under Art. 120 of the Limitation Act merely because the contesting defendant did not recognise that right. The period of six years prescribed by Art. 120 has to be computed from the date when the right to sue accrues and there could be no right to sue until there is an accrual of the right asserted in the suit and its infringement or at least a clear and unequivocal threat to infringe that right. If the trustees were willing to give a share and on the record of the case it must be assumed that they being trustees appointed under a scheme would be willing to allow the plaintiffs their legitimate rights including a share in the income if under the law they were entitled thereto, mere denial by the defendants of the rights of the plaintiffs and defendant No. 2 will not set the period of limitation running against them.

17. In *Rukshmaniben Vs. Vadilal Narayandas Jadawala and Another*, a Division Bench of Gujarat High Court has explained the expression "right to sue" as under:

7. As already noted, Article 58 of the Limitation Act, 1963, which Article learned counsel for the defendant wants use to apply to the pleas of the plaintiffs, stipulates that time of three years for a suit to obtain any other declaration would begin to run "when the right to sue first accrues". The word "first" found in Article 58 could not have a separate or an independent significance, unless the right to sue accrues. It is the element of accrual of the right to sue that is decisive and only when the right to sue has accrued, then it has got to be found out as to when it "first" accrued. Hence, the pronouncement which have spoken on Article 120 of the Old Limitation Act, 1908, do form a firm guidance, to find out as to when the right to sue accrues for the purpose of Article 58 of the Limitation Act, 1963.

8. There must be accrual of the right to sue for the plaintiff, in the sense and infringement or at least a clear and unequivocal threat to infringe that right by the defendant should happen. So far the right of the plaintiff is not infringed or there is no positive and over act on the part of the defendant to infringe the right of the plaintiff, there would not be accrual of the right to sue. When the plaintiff states and proves his case that on a particular date there was an infringement or at least a clear and unequivocal threat to infringe the right of the plaintiff, the defendant, if he wants to demonstrate a contrary position, must plead and prove the same. Some over act on the part of the defendant towards infringement or threat to infringe is expected to make it incumbent for the plaintiff to institute the suit. Then only it could be stated that the right to sue has accrued. A hostile attitude remaining dormant in the mind of the defendant and which never got expressed in any over act of his, by infringing or at least clearly and

unequivocally threatening to infringe the right of the plaintiff will not bring the case within the purview of the set of expressions "right to sue accrues". The above propositions gleaned from the pronouncements which we have referred to above, thought do not require reiteration, yet we have recapitulated them for the purpose of guiding ourselves to assess the facts of the case to find out as to whether the suit of the plaintiffs is barred as contended by the defendant.

18. In *Dhanno and Others Vs. Hari Ram and Another*, learned Single Judge of Punjab and Haryana High Court has held that the plaintiff can file suit as and when a cloud has been cast on the title of the plaintiff and the cause of action arises in such like cases when the defendant/defendants threaten the plaintiffs to take forcible possession of the land from him. Learned Single Judge has held as under:

13. Reliance upon Section 108 of the Indian Evidence Act is wholly misplaced. This section deals with burden of proving as to whether a person is alive who has not been heard of for seven years. In view of the fact that Smt. Dhanno is stated to have married Gainda sometime in the year 1943, she automatically stand divested of her right in the land on account of section 59 of the Punjab Tenancy Act. This way the plaintiffs along with Punnu became owners of the extent of 1/3rd share in the joint holding. Admittedly, the land has remained in cultivating possession of the plaintiffs as well as defendants and so the mere entries in the revenue record specifying certain shares do not cast any doubt on their valuable right and the plaintiffs are well within their right to seek correction of these revenue entries in the register of mutation etc. as and when an attempt is made to dispossess them. Thus, cause of action arises in such like cases when the defendant/defendants threaten the plaintiffs to take forcible possession of the land from him. Mere entry of mutation in the name of defendant does not furnish any cause of action to the plaintiffs. This precise point came up for consideration in *Ibrahim's case supra*) and the Court after considering the provisions contained in Article 58 of the Limitation Act held that the use of word "first" in Article 58 is of no significance at all and so the plaintiff can file suit as and when a cloud has been cast on the title of the plaintiff. Reliance was placed on the earlier decision of the Division Bench in the case reported as *Niamat Singh Vs. Darbari Singh and Others*, wherein it was held as under:-

If an adverse entry is made against a person who is in actual physical possession of the property and if he continues to retain possession of the said property despite this entry in the revenue papers he is under no obligation to bring a suit.

If, however, his rights are actually jeopardised by the actions or assertions of the defendant, then he must take proceedings within six years from the date of such actions or assertions. In other words, the time begins to run not from the date on which an adverse entry is made but from the date on which there is a fresh denial of the plaintiff rights.

19. In *Smt. Bhagwanti Devi Vs. Mat Ram (Dead) through L.Rs.*, learned Single

Judge of Punjab and Haryana High Court while discussing Article 58 of the Limitation Act has held that when plaintiff continues to be in possession of the suit land along with the defendant, cause of action in such case would arise when there is threat to his title.

13. It could not be disputed that the plaintiff is a partner of the firm and as partner he enjoys the benefits of the firm including the possession of the property purchased by virtue of conveyance deed dated 29.4.1968, Ext. D1. Since the plaintiff continues to be in possession of the suit land along with the defendant and, thus, his suit could not be dismissed on the ground that it is beyond the period of limitation. The cause of action in such case would arise only when there is any threat to his title. According to the plaintiff such threat arose when Improvement Trust, Hansi served a notice u/s 9 regarding acquisition of land comprising in Khasra No. 1075. At this stage on inspection of record he came to know about the omission of his name in the sale deed and in the mutation.

20. In Manti and Others Vs. Sarwati Devi and Others, learned Single Judge of Punjab and Haryana High Court has held that even if entries in revenue record are wrong, a party can choose to ignore the same till a real threat to title is apprehended. Learned Single Judge held as under:-

11. I have considered the rival submission and perused the record. There is no serious dispute about the substantive rights of the parties. Even learned counsel for the appellants does not dispute that Mata Chand having pre-deceased Dalip Chand, heirs of Mata Chand will not be entitled to the share of Dalip Chand in view of Entry-II of Class IInd of the Schedule to the Hindu Succession Act read with Section 8 of the said Act. Only question is of limitation. I am of the view that Article 58 of the Schedule to the Limitation Act will govern the limitation and the lower appellate court was in error in observing that Article 58 of the Act cannot apply. Even so, contention of the learned counsel for the appellants that the suit is barred by limitation, cannot be accepted. Though limitation is three years, the time from which this period beings to run is when the right to sue first accrues. It is not possible to accept that right to sue accrued in the year 1966 when mutation was sanctioned, as rightly held by the lower appellate court nor it accrued when gift of part of land was made. The parties were in joint possession and it is not shown that their shares were separated. Though learned counsel for the appellants mentioned that there was separation of joint holding, there is no material on record to indicate separation of shares and date of separation, if any. Even if entries in revenue record are wrong, a party can choose to ignore the same till a real threat to title is apprehended. Reference in this regard may be made to the decision of a Division Bench of this Court in Ibrahim Vs. Sharifan, it was observed: " it may be observed at the outset that that the word "first" occurring in Article 58 of the Act is of no significance at all for deciding the issue of limitation so far as the facts of the case in hand are concerned as the main point which requires determination is whether mere entry of a mutation in the

name of the defendant would furnish a cause of action to the plaintiff to file a suit for declaration or not." It was further held that where no cloud is cast on the title of plaintiff, mere entry of mutation in the name of the defendant in absence of any other act of the defendant, cause of action does not accrue to the plaintiff for the purpose of Article 58 of the Schedule to the Limitation Act.

21. In Ibrahim Vs. Sharifan, a Division Bench of Punjab and Haryana High Court has held that mere entry of a mutation in the name of defendant would not furnish any cause of action to plaintiff and cause of action arose to the plaintiff when defendant actually threatened to take forcible possession of land from the plaintiff. The Division Bench has held as under:

6. While controverting the aforesaid findings of the learned Single Judge, it was contended by Mr. Aggarwal, learned counsel for the appellant, that cause of action arose to the plaintiff in April, 1969, when the defendant actually threatened to take forcible possession of the land from the plaintiff and that mere sanction of the mutation with respect to half share of the land in dispute in the name of the defendant did not give any cause of action to the plaintiff, especially when he had continued to be in exclusive possession of the land without any interference of any kind by the defendant. ON the other hand, it was contended by Mr. Kapur, learned counsel for the respondent, that a cloud was actually cast on the right of the plaintiff in the year 1957 after the death of Akbar mutation of inheritance was sanctioned in favour of the plaintiff, the defendant and their mother in equal shares; that the right to sue first accrued to the plaintiff, on the date when the said mutation was sanctioned and the suit having been filed beyond the period of three years was clearly barred by time.

7. After giving our thoughtful consideration to the entire matter, we find that there is considerable force in the contention of the learned counsel for the appellant.

8. It may be observed at the outset that the word "first" occurring in article 58 of the Act is of no significance at all for deciding the issue of limitation so far as the facts of the case in hand are concerned as the main point that requires determination is whether mere entry of mutation in the name of the defendant would furnish a cause of action to the plaintiff to file a suit for declaration or not. There is no dispute that mutation was sanctioned in favour of the defendant after the death of Akbar and in case such an entry furnished a cause of action, then certainly the suit would be barred by limitation. Even Mr. Aggarwal very fairly conceded this proposition. But what was argued by him was that mere entry of mutation did not furnish any cause of action and in support of his contention he relied on a Division Bench judgment of this Court in Niamat Singh Vs. Darbari Singh and Others, In our view, the contention of the learned counsel has considerable force. The plaintiff continued to be in possession of the entire property even after the sanction of the mutations in the name of the defendant after the death of Akbar or her mother Smt. Nanhi or her uncle Bhiku. The defendant was never given any share in the rent, nor was she given any produce

out of the land her share. In this situation, no cloud was cast on the title of the plaintiff by mere entry of the mutation in the name of the defendant. Further, there is no proof on the record to show that before April, 1960, by any act or assertion of the defendant the right of the plaintiff was ever actually jeopardized. The defendant is occupying a house in the village. The assertion of the plaintiff is that it was given by him to her out of compassion, while the plea of the defendant is that she occupied it as of right. Be that as it may, the fact remains that so far as the agricultural land is concerned, the defendant after the sanction of the mutations never asserted her right to her share in the land in dispute, nor did she ever get any rent or produce any that it was in the year 1969 that she tried to assert her right and interfere with the possession of the plaintiff. In this situation, mere entry of a mutation in the name of the defendant would not furnish any cause of action to the plaintiff. The view of ours finds full support from the judgment of the Division Bench in Niamat Singh's case. Thus, we do not agree with the learned Single Judge that the cause of action arose when the mutation was entered in the name of the defendant and consequently, reverse the finding on issue No. 4 and hold that the suit filed by the plaintiff is within limitation.

22. Their Lordships of the Hon'ble Supreme Court in Daya Singh and Another Vs. Gurdev Singh (Dead) by L.Rs. and Others, have held that right to sue accrues when there is a clear and unequivocal threat to infringe a right. Their Lordships have held as under:

13. Let us, therefore, consider whether the suit was barred by limitation in view of Article 58 of the Act in the background of the facts stated in the plaint itself. Part III of the schedule which has prescribed the period of limitation relates to suits concerning declarations. Article 58 of the Act clearly says that to obtain any other declaration, the limitation would be three years from the date when the right to sue first accrues.

14. In support of the contention that the suit was filed within the period of limitation, the learned senior counsel appearing for the plaintiffs/appellants before us submitted that there could be no right to sue until there is an accrual of the right asserted in the suit and its infringement or at least a clear and unequivocal threat to infringe that right by the defendant against whom the suit is instituted. In support of this contention the learned senior counsel strongly relied on a decision of the Privy Council reported in AIR 1930 270 (Privy Council) In this decision their Lordships of the Privy Council observed as follows:-

There can be no right to sue until there is an accrual of the right asserted in the suit and its infringement or at least a clear and unequivocal threat to infringe that right by the defendant against whom the suit is instituted.

15. A similar view was reiterated in the case of C. Mohammed Yunus Vs. Syed Unissa and Others, in which this Court observed:

the period of 6 years prescribed by Article 120 has to be computed from the date

when the right to sue accrued and there could be no right to sue until there is an accrual of the right asserted in the suit and its infringement or at least a clear and unequivocal threat to infringe that right.

In the case of C. Mohammad Yunus (*supra*), this Court held that the cause of action for the purposes of Article 58 of the Act accrues only when the right asserted in the suit is infringed or there is at least a clear and unequivocal threat to infringe that right. Therefore, the mere existence of an adverse entry into the revenue record cannot give rise to cause of action.

16. Keeping these principles in mind, let us consider the admitted facts of the case. In para 16 of the plaint, it has been clearly averred that the right to sue accrued when such right was infringed by the defendants about a week back when the plaintiffs had for the first time come to know about the wrong entries in the record of rights and when the defendants had refused to admit the claim of the plaintiffs. Admittedly, the suit was filed on 21st of August, 1990. According to the averments made by the plaintiffs in their plaint, as noted hereinabove, if this statement is accepted, the question of holding that the suit was barred by limitation could not arise at all. Accordingly, we are of the view that the right to sue accrues when a clear and unequivocal threat to infringe that right by the defendants when they refused to admit the claim of the appellants, i.e. only seven days before filing of the suit. Therefore, we are of the view that within three years from the date of infringement as noted in Paragraph 16 of the plaint, the suit was filed. Therefore, the suit which was filed for declaration on 21st of August, 1990, in our view, cannot be held to be barred by limitation.

23. This Court in *Shiam Singh and Others Vs. Chaman Lal and Others*, has held that the limitation begins to run not from the date of the entry affecting the right of the person concerned, but from the date when he feels aggrieved by the entry and it is the satisfaction of such person as to when does he feel aggrieved by the entries. This Court has held as under:

14. It is well settled that for a suit for declaration, referred to in Section 46, limitation begins to run not from the date of the entry affecting the right of the person concerned, but from the date when he feels aggrieved by the entry and it is the satisfaction of such person as to when does he feel aggrieved. Defendant cannot be heard to say that he (the plaintiff) felt aggrieved by the entry at some earlier point of time or when the entry was actually made.

24. Both the courts below have correctly appreciated the oral as well as documentary evidence. The suit was within limitation. The civil court had the jurisdiction to decide the lis. Accordingly, in view of the discussions and analysis made hereinabove, there is no question of law much less to say substantial question of law involved in the Regular Second Appeal and the same is dismissed. Pending application(s), if any, also stands disposed of.. No costs.