

**IN THE HIGH COURT OF PUNJAB AND HARYAN AT
CHANDIGARH**

**CR No.8381 of 2014
Date of Decision : 31.7.2015**

Smt. SatwatiPetitioner

Versus

Smt. Ram Kali and anotherRespondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present:- Mr. Kunal Dawar, Advocate, for the petitioner

Mr. Rajpal Singh, Advocate, for respondent No.1

Respondent No.2 ex parte vide order dated 7.4.2015

M.M.S. Bedi, J.

This is defendants' revision petition against order dated 3.11.2014, passed by the learned Civil Judge (Junior Division), Palwal, dismissing the application under Order 7 Rule 11 (d) CPC for rejection of the plain on the ground that the suit is barred by law of limitation.

With the assistance of learned counsel for the petitioner, I have gone through the pleadings of the parties. Plaintiff/respondent No.1 has filed a suit challenging the validity of judgment and decree dated 28.4.1984 and the mutation entered on the basis of the said judgment on the ground that the judgment is vitiated and suffered from fraud and misrepresentation.

Learned counsel for the petitioner submits that a similar suit had been filed by the plaintiff challenging the same judgment and decree but it was withdrawn, as such, this suit is not maintainable in law.

I have considered the contentions of learned counsel for the petitioner and gone through the record carefully and I am of the opinion that the plea of suit being barred by limitation is a mixed question of law and fact and has to be decided on the basis of material produced by both the parties. The defendant may claim the framing of an issue of limitation and seek dismissal of the suit on the basis of the said issue.

No ground is made out for interference in the impugned order.

This petition is dismissed without prejudice to the rights of the petitioner.

(M.M.S. BEDI)
JUDGE

31.7.2015

Ashwani