

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL Nos. 10753 OF 2018
(Arising out of SLP (C) No. 13459 of 2018)

KEWAL KRISHAN ... Appellant(s)

Versus

DHARAMBIR AND ORS. ... Respondent(s)

O R D E R

- 1) Delay condoned.
- 2) Leave granted.
- 3) An amendment application to a plaint which was filed for injunction simpliciter, the amendment being for adding the relief of specific performance, has been turned down by the courts below. The reasoning given by the courts below is that the amendment would be barred by limitation if one is to calculate the limitation from the date of the agreement to sell or the date of the alleged cancellation, both of which took place in the years 2004 and 2005 respectively. Since the amendment was moved on 20.02.2014, the courts below have said that the amendment is time barred.
- 4) Having heard learned counsel for the parties, we are of the view that this is not correct. The Agreement to Sell dated 31.03.2004 itself states that a contingency has first to occur before the Agreement can be enforced, viz., a second appeal has to be disposed of. We are informed that the said

second appeal was dismissed as withdrawn only on 12.12.2012. Therefore, at the earliest, limitation to enforce this Agreement would began only from the said date. The amendment made, therefore, cannot be said to be time barred.

5) The amendment, therefore, stands allowed. The judgments passed by the courts below are set aside.

6) With these observations, the appeal is allowed.

.....J.
(ROHINTON FALI NARIMAN)

.....J.
(NAVIN SINHA)

New Delhi,
Dated: October 26, 2018.

ITEM NO.45

COURT NO.8

SECTION IV-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 13459/2018

(Arising out of impugned final judgment and order dated 28-11-2017 in CR No. 8141/2014 passed by the High Court Of Punjab & Haryana At Chandigarh)

KEWAL KRISHAN

Petitioner(s)

VERSUS

DHARAMBIR & ORS.
(Relief:-Permanent Injunction)

Respondent(s)

Date : 26-10-2018 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN
HON'BLE MR. JUSTICE NAVIN SINHA

For Petitioner(s) Mr. Daya Krishan Sharma, AOR
Mr. Rohit Vats, Adv.
Mr. I.C. Sharma, Adv.

For Respondent(s) Mr. Shish Pal Laler, Adv.
Mr. Sonit Sinhmar, Adv.
Mr. Devesh Kumar Tripathi, AOR

UPON hearing the counsel the Court made the following
O R D E R

The appeal is allowed in terms of the signed order.

(MANAV SHARMA)
COURT MASTER (SH)

(TAPAN KUMAR CHAKRABORTY)
BRANCH OFFICER

(Signed order is placed on the file.)