

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3028 OF 2008

Neena Devi

...Appellant

VS.

Nini Kumar Jain & Ors.

...Respondents

WITH

CIVIL APPEAL NO.3062 OF 2008

CONTEMPT PETITION(CIVIL) NO.184/2010 IN C.A. NO.3062/2008

O R D E R

Civil Appeal No.3028 of 2008

We have heard the learned counsel for the parties.

The present appeal has been filed against the judgment and order dated 14th September,2006 passed by the learned Single Judge of the Punjab and Haryana High Court whereby the Revision Petition filed by the respondents herein was allowed and it was directed that the counter claim filed by respondent No.1 be taken on record.

From perusal of the record, it appears that an agreement to sell was executed between the parties on 12th November,1985. A suit for specific performance was filed by the appellant on 21st December,1995. The first date of

hearing was fixed on 10th January, 1996. Written statement was filed on 12th March, 1996. Counter claim was also filed by the respondents on 4th January, 1999. The Trial Court vide order dated 7th March, 2001 allowed the application suit filed by the appellant herein under Order VIII Rule 6(C) of the Code of Civil Procedure, 1908 by holding that the counter claim filed by the respondents herein could not be entertained, as it was not filed along with the written statement. The respondents preferred Revision before the High Court and the learned Single Judge by the impugned order held that as the cause of action had arisen on 10th January, 1996 and the counter claim having been filed on 4th January, 1999 which is within the period of limitation of three years, as provided under Article 113 of the Limitation Act, 1963, the same could not have been excluded. While holding so the learned Single Judge has relied upon a decision of this Court in *Mahendra Kumar and another v. State of Madhya Pradesh and others*, AIR (1987) SC 1395 wherein this Court has held that the counter claim, if filed within the period of limitation as to when the cause of action arose, cannot be excluded only on the ground that it was not filed along with the written statement.

We are in respectful agreement with the view taken by the learned Single Judge and do not find any legal infirmity in the impugned judgment. The appeal fails and is, therefore, dismissed.

CIVIL APPEAL NO.3062 OF 2008:

Since the question of law raised in this appeal is similar to Civil Appeal No.3028 of 2008, this appeal also fails and is, therefore dismissed.

As these appeals are pending since long, we request the concerned High Courts to decide these matters as expeditiously as possible in accordance with the provisions of law.

CONTEMPT PETITION(CIVIL)NO.184/2010 IN C.A.NO.3062/2008

Consequent upon the dismissal of civil appeal, nothing further survives in the contempt petition.

Hence, the contempt petition is closed.

.....J.
[R.K. AGRAWAL]

.....J.
[ABHAY MANOHAR SAPRE]

New Delhi;
February 22, 2017.

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

Civil Appeal No(s). 3028/2008

NEENA DEVI

Appellant(s)

VERSUS

NINI KUMAR JAIN & ORS.

Respondent(s)

(With interim relief and office report)

WITH C.A. No. 3062/2008 (With Office Report)

CONMT.PET.(C) No. 184/2010 In C.A. No. 3062/2008

Date : 22/02/2017 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.K. AGRAWAL

HON'BLE MR. JUSTICE ABHAY MANOHAR SAPRE

For Appellant(s) Mr. Neeraj Srivastava,Adv.
Mr. D.K. Bhatti,Adv.
Mr. Chitta Ranjan Mishra,Adv.
Mr. Debasis Misra,Adv.

Mr. C. V. Subba Rao,Adv.

Mr. T. N. Rao,Adv.

For Respondent(s) Mr. Vikas Chaudhary,Adv.
Mr. S.D.Raman,Adv.
Mr. Garvesh Kabra,Adv.

Mr. K. V. Vijayakumar,Adv.

Ms. Rukhsana Choudhury,Adv.

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

The civil appeals are dismissed and the contempt
petition is closed in terms of the signed order.

(Anita Malhotra)
Court Master

(Chander Bala)
Court Master

(Signed order is placed on the file.)