

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO. 1089 OF 2010

**HIMACHAL PRADESH STATE INDUSTRIAL
DEVELOPMENT CORPORATION
LIMITED**

APPELLANT(S)

VERSUS

**M/S. MANSON (INDIA) PVT. LTD.
& ORS.**

RESPONDENT(S)

ORDER

1. The present appeal challenges the concurrent orders passed by the learned Single Judge of the High Court of Himachal Pradesh, Shimla dated 19.04.2000 holding the suit of the appellant-plaintiff-Himachal Pradesh State Industrial Development Corporation Limited to be barred by limitation and by the Division Bench dated 15.09.2008 affirming the finding with regard to the suit being barred by limitation.

2. Mr. J.S. Attri, learned senior counsel appearing for the appellant, submitted that both the learned Single Judge as well as the Division Bench have erred in holding that the suit was barred by limitation. He submitted that the Himachal Pradesh Financial Corporation had sold the

properties on 17.09.1991, and as such, the right to recover the balance amount accrued on the said date. It is, therefore, submitted that since the suit was filed within a period of three years from the said date, it was very well within the limitation.

3. Mr. Attri, learned senior counsel, further relies on the judgment of this Court in the case of Himachal Pradesh Financial Corporation vs. Smt. Pawna and others in Civil Appeal No.1971/1998.

4. Both the courts have concurrently found that the cause of action to file the present suit accrued on 26.07.1988 when the plaintiff had recalled the term loan and called upon the defendants to pay the entire amount. The Division Bench further found that there was no proof to show that there was any tripartite agreement between the parties or between the appellant-plaintiff and the Himachal Pradesh Financial Corporation.

5. In so far as the reliance placed by Mr. Attri, learned senior counsel on the judgment of this Court is concerned, the Division Bench of the High Court in its judgment has considered the said judgment and observed

thus:

“The judgement of the Apex Court relied upon by the plaintiff is based on totally different facts where the State Financial Corporation had admittedly sold the goods and had itself to recover the balance amount. In the present case as pointed out above none of the factors necessary for showing that the case of the plaintiff fell under Clause 16 have been pleaded or proved. Therefore, we hold that the suit was not within limitation.”

6. The question of limitation is a mixed question of law and fact. On fact, both the learned Single Judge as well as the Division Bench found that the cause of action to file the suit arose on 26.07.1988.

7. We do not find that any error is committed by the learned Single Judge or the Division Bench of the High Court to warrant an interference.

8. The appeal is dismissed accordingly. Pending application(s), if any, shall stand disposed of.

.....**J.**
(B.R. GAVAI)

.....**J**
(PAMIDIGHANTAM SRI NARASIMHA)

NEW DELHI;
20th JULY, 2022

ITEM NO.102

COURT NO.15

SECTION XIV-A

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). 1089/2010

HIMACHAL PRADESH STATE INDUSTRIAL DEVELOPMENT
CORPORATION LIMITED

Appellant(s)

VERSUS

M/S. MANSON (INDIA) PVT. LTD. & ORS.

Respondent(s)

Date : 20-07-2022 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.R. GAVAI

HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA

For Appellant(s) Mr. J.S. Attri, Sr. Adv.
Mr. Rameshwar Prasad Goyal, AOR
Mr. Vikas Kumar Singh, Adv.
Mr. Chandra Nand Jha, Adv.

For Respondent(s) Mr. Rakeshwar L. Sood, Sr. Adv.
Mr. Vaibhav Kalra, Adv.
Mr. Arjun Sood, Adv.
Ms. Anisha Upadhyay, AOR
Mr. Nishant Kumar, Adv.

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

The appeal is dismissed in terms of the signed
order. Pending application(s), if any, shall stand
disposed of.

(Geeta Ahuja)
Assistant Registrar-cum-PS

(Anju Kapoor)
Court Master

(Signed Order is placed on the file)