

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY BENCH AT
AURANGABAD**

CIVIL REVISION APPLICATION NO. 181 OF 2015

Narayan Trimbak Jamkar .. Petitioner

Versus

Subhadrabai Narayan Gore and Others .. Respondents

Shri P. R. Katneshwarkar, Advocate for the Petitioner.

**CORAM : S. V. GANGAPURWALA, J.
DATE : 08TH SEPTEMBER, 2015.**

PER COURT :

1. Mr. Katneshwarkar, the learned counsel for the petitioner strenuously contends that, the suit of the plaintiffs ex-facie was barred by limitation. The sale deed is of the year, 1996. The petitioner was placed in possession in the year, 1996. The suit is filed after lapse of 12 year's of the petitioner being put in possession. As the suit on the face of it is barred by limitation, the suit can not proceed. The application for rejection of plaint filed under Order VII Rule 11 ought to have been allowed. The pleadings in the plaint even if, taken as it is, the suit is barred by limitation. However, the learned Judge did not consider the said aspect in its correct perspective.

2. I have considered the order. The Court while rejecting the application has observed that, issue of limitation is a question of fact and law and that cannot be decided unless evidence of the parties is considered. The suit is filed based on title. The trial

Court while rejecting the application has kept the issue of limitation open.

3. Considering the above, no error is committed by the Court while passing the impugned order. As such, the revision is dismissed. No costs.

[S. V. GANGAPURWALA, J.]

sam/Sep. 15