

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION STAMP NO.32644 OF 2014

Shri Vasant Motiram Bachhav.] ... Petitioner/
 Versus Org. Defendant

Shri Sahebrao Motiram Bachhav and Anr.] ... Respondents/
 Orig. Plaintiffs

Mr. Milind M. Sathaye for Applicant/Petitioner.
 Mr. N. R. Bubna for Respondent Nos.1 and 2.

CORAM :- M. S. SONAK, J.
DATE :- MARCH 17, 2015

P. C. :-

1. This petition is directed against the Order dated 19/04/2014 passed below Exhibit Nos.1 and 13 in Regular Civil Suit No.410 of 2013, by the Civil Judge, Junior Division, Malegaon. By the application under Ex.13, the Petitioner has raised the preliminary issue that the suit was barred by the law of limitation.

2. In the light of the decision of the Hon'ble Apex Court in the case of Kamlakar V/s. Baburao Jawalkar in Civil Appeal No.1085 of 2015 decided on 12/02/2015, the learned Advocate for Petitioner, upon taking instructions from the Petitioner, seeks leave at this stage to withdraw application at Ex.13, with liberty to rely upon the two documents filed along with the said application for urging that the

suit is indeed barred by the law of limitation, at the stage of hearing. There is no difficulty in accepting the request of the learned Advocate for Petitioner and further granting the Petitioner i.e. the original Defendant, opportunity as prayed for.

3. Accordingly, the Petitioner is granted liberty to withdraw the application at Ex.13, with liberty to place reliance upon Consent Deed dated 05/01/1990 and mutation entry no.665 of Mouje Bhilkot, Taluka Malegaon, in respect of the Petitioner's contention that the suit is indeed barred by the law of limitation. In view of the withdrawal of application at Ex.13, the impugned order dated 19/04/2014, will no longer survive. It is made clear that along with liberty granted to the Petitioner, the Respondents' right to take all contentions with regard to admissibility or probative value of the aforesaid documents is also retained. In fact, all contentions of all parties, on the issue of limitation, are kept open.

4. The petition is disposed of in the aforesaid terms. There shall be no order as to costs.

(M. S. SONAK, J.)