

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD

**FOR THE STATE OF TELANGANA AND
THE STATE OF ANDHRA PRADESH**

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CIVIL REVISION PETITION No.1518 OF 2015

Between:

Fazal Ullah Khan and others

.. Petitioners

and

Mohammed Hameed Ullah Khan and another

.. Respondents

DATE OF JUDGMENT PRONOUNCED: July 24, 2015

SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE R. SUBHASH REDDY

1. Whether Reporters of Local newspapers Yes/No
may be allowed to see the Judgments?

2. Whether the copies of judgment may be Yes/No
marked to Law Reporters/Journals?

3. Whether their Ladyship/Lordship wish to Yes/No
see the fair copy of the Judgment?

THE HON'BLE SRI JUSTICE R. SUBHASH REDDY

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CIVIL REVISION PETITION No.1518 OF 2015

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ORDER:

This revision petition, under Article 227 of the Constitution of India, is filed by the defendants in O.S.No.80 of 2012 on the file of III Additional Chief Judge, City Civil Court, Hyderabad, aggrieved by the order, dated 20.02.2015, passed in I.A.No.339 of 2014 in the said Suit.

Respondents have filed the aforesaid Suit to declare the registered Gift Deed bearing Document No.3752 of 2006, dated 19.07.2006, as null and void, and to grant permanent injunction restraining the petitioners or any person claiming through them from causing any sort of interference with the peaceful possession of respondent No.1 over the suit schedule property. With regard to the limitation, in the plaint, it is stated as under:

“VI. Limitation: The present suit for relief of Declaration of Gift Deed Doc.No.3752 of 2006, dt:19-07-2006, executed without delivery of possession and a conditional gift, limitation starts from the date of refusal to comply the condition i.e., from August 2010 and 7-10-2010, when D1

refused to comply the condition and instead tried to sell away the schedule house property to third parties, as such well within period of limitation.”

In the said Suit, petitioners have filed I.A.No.339 of 2014, under Order VII Rule 11 (A) and (D) read with Section 151 C.P.C., seeking to reject the plaint mainly on the ground that it is barred by limitation. The Court below, by impugned order, dated 20.02.2015, dismissed the said application.

In this revision petition, mainly it is contended by the learned counsel for petitioners that the limitation period as prescribed under the Limitation Act, 1963, is only three years, and as the Gift Deed was executed on 19.07.2006 and the Suit for cancellation of such Gift Deed was filed in the year 2012, it is barred by limitation. Learned counsel for the petitioners has also placed reliance on the judgment of this Court in **Mabeeba Begum and others v. Gulam Rasool and others**.

It is fairly well settled that the question of limitation is a mixed question of fact and law. Further, in the plaint, the respondent – plaintiffs sought computation of limitation period from August, 2010 and 07.10.2010. Whether the Suit is within the limitation period or not, is a matter to be decided after full fledged trial, but it is not a ground to reject the plaint at this stage. In that view of the matter and in view of the reasons recorded by the Court below, we do not find any merit in this revision petition, so as to interfere with the impugned order.

Accordingly, the revision petition is dismissed. However, as the Suit is of the year 2012, there shall be a direction to the III Additional Chief Judge, City Civil Court, Hyderabad, to dispose of the Suit as expeditiously as possible, preferably within a period of six (6) months from the date of receipt of a copy of this order.

Miscellaneous Petitions, if any, pending in this revision petition shall stand closed. No costs.

R. SUBHASH REDDY, J

July 24, 2015

MD