

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 270 OF 2015**

**Appasaheb Sadashiv Shete (deceased)
through LRS & Anr.**

..Applicants

Vs.

**Kisan Balwant Dombé (deceased)
through LRS & Anr**

..Respondents

Mr. S. S. Patwardhan for the Applicants

**CORAM : R. M. SAVANT, J.
DATE : 10th FEBRUARY, 2016**

P.C.

1 There is a concurrent finding recorded by the courts below as regards the instant Suit filed in the year 1987 being beyond limitation. Both the courts below have held that in terms of Article 66 of the Limitation Act, the Suit was required to be filed within 12 years of the knowledge being acquired by the Plaintiffs of the premises being used for purposes other than for which it was let. As regards the knowledge attributed to the Plaintiffs, the same was on the basis of deposition of the P. W.1 in the earlier Suit being Regular Civil Suit No.83 of 1970 which was filed by the Plaintiffs against the original tenant Shankar Dombé wherein it was deposed by the P. W.1 Babasaheb Sadashiv Shete to the following effect “at present there is no shop in the suit premises but the Defendant is residing there.” It is on the basis of the said statement that the courts below have come to a conclusion that atleast from 14-2-1972

the Plaintiffs were aware of the shop premises being used for the purpose other than for which they were let and therefore the Suit was required to be filed by 14-2-1984, but since was filed on 25-3-1987, the same was beyond the period of limitation. Though the other issues have been decided in favour of the Plaintiffs by the courts below, in view of the fact that the issue of limitation which goes to the root of the matter has been decided against the Plaintiffs and the Suit has been dismissed on the said ground, no case for invoking the Revisionary Jurisdiction of this Court has been made out. The Civil Revision Application is accordingly dismissed.

[R.M.SAVANT, J]