

Sequeira

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION*

CIVIL REVISION APPLICATION NO. 290 OF 2016

Kumar T Jain

... Applicant

Vs.

The Stock Holding Corporation of
India Limited & ors.

... Respondents

Mr.P.Ranjan h/f M/s.Halai & Co., for the Applicant.

***CORAM : N.M.Jamdar, J.
Tuesday, 30 August 2016.***

P.C. :

The impugned order is passed on 26 November 2014 by the learned City Civil Court, Judge on a preliminary issue.

2. After the preliminary issue was framed the Respondent-Plaintiff did not adduce evidence. The Applicant neither cross-examined the Plaintiff's witness neither adduced rebuttal evidence therefore, the learned City Civil Court Judge came to the conclusion that the evidence led by the Respondent-Plaintiff having gone unchallenged and the plaint having demonstrated that the suit is within limitation, the issue cannot be held against the Respondent-Plaintiff. Even otherwise, the learned City Civil Court Judge has gone on to examine

the cause of action and found that it arose on 13 July 2010 therefore suit was within limitation. The present Civil Revision Application was filed with delay which was condoned. Considering this position, I am not inclined to interfere with the impugned order. It is clarified that in case the decision of the suit is against the Applicant, the Applicant will be entitled to challenge this finding in appellate proceedings. With this clarification, the Civil Revision Application is disposed of.

(N.M.Jamdar, J.)