

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

WRIT PETITION NO. 4902 OF 2014

1. Shyamsunder Radheshyam Agarwal

2. Murlidhar R. Agarwal,

Office at 3/18, Ram Mandir Road,

Bhayander (W), Thane – 401 101.

... Petitioner

v/s

Smt.Hasna Prafulbbahi Shah & ors.

... Respondents

Mr.Sandesh Patil for the petitioner.

None present for the respondents.

Coram: N.M. Jamdar, J.

Dated: 29 August 2016

ORAL ORDER:

The Petitioner is aggrieved by the impugned order to the extent that the application filed by the Petitioner under Section 9A of the Code of Civil Procedure is rejected as regard some of the prayers in the suit. Learned counsel for the Petitioner submitted that the learned Civil Judge has, by the impugned order, held that the prayers (g) and (h) as regard the agreement of sale dated 9 September 2009 and power of attorneys dated 10 September 2009, 31 May 2008 and

23 September 2009, as barred by limitation, however, there is no discussion as regard prayer clauses (i) and (j) as to why the challenge therein is held to be within limitation.

2 A bare perusal of Clauses (i) and (j) shows that the dates challenged therein are – 26 October 2012, 17 December 2012, 31 December 2012 and 10 April 2013. These prayers, if taken stand alone, are within the period of limitation as the suit is filed on 19 June 2013. As regard the contention of the learned counsel for the Petitioner that once the prayer clauses (g) and (h) are held to be barred by limitation, then as a consequence, prayers (i) and (j) would also be barred by limitation, is a matter which would be considered at the time of the trial. However, if prayers (i) and (j) are taken on stand alone basis, the observation of the learned Judge cannot be faulted. The contention of the learned counsel for the Petitioner that all prayers will have to be taken together, it is kept open to be considered at the time of the trial.

3 With these observations, the writ petition is disposed of.

(N. M. Jamdar, J.)