

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

**CIVIL APPLICATION NO.1032 OF 2015
IN
SECOND APPEAL NO.487 OF 2015**

Premchand Kaliram Agarwal .. Applicant
Vs.
Shyam Gandhi Construction Co. .. Respondent

Mr.Sanjay Kshirsagar for the applicants.
Mr.Sudhir Sadavarte for the respondent.

CORAM : R.D. DHANUKA, J.
DATE : 2nd March 2016

P.C.

. Rule, returnable forthwith. Learned counsel appearing for the respondent waives service.

2. By a separate order passed by this Court today in Second Appeal No.487 of 2015, the said second appeal has already been admitted on the substantial questions of law formulated by this Court. Heard learned counsel appearing for the parties.

3. In my prima facie view, both the Courts below have wrongly applied 12 years of limitation to the suit filed by the original plaintiff. The learned trial Judge, however, has passed a money decree along with other dues granted in favour of the plaintiff.

4. Civil application is made absolute in terms of prayer clause (a) on the condition that the applicant deposits the amount in terms of paragraphs 3 and 4 of the judgment and decree dated 20th December

2006 within eight weeks from today before the trial Court. It is made clear that if the amount directed to be deposited as aforesaid is not deposited within the time prescribed, interim order passed by this Court to stand vacated without further reference to the Court. It is made clear that no further extension would be granted. The respondent seeks to withdraw the said amount if deposited by the applicant. If any such application is filed, the learned trial Judge shall consider such request for withdrawal on its own merits. Civil application is disposed of in aforesaid terms. No order as to costs.

R.D. DHANUKA, J.