

**THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN**

**CIVIL REVISION PETITION NO.809 of 2016**

**Date: 03-06-2016**

**ORDER:**

The present Revision Petition has been filed by the 2<sup>nd</sup> defendant in a suit for partition, challenging the dismissal of his application for trying the question of limitation as a preliminary issue.

Heard Sri P. Prabhakara Rao, learned counsel for the petitioner.

As stated earlier, the suit was one for partition. The defendants 1 to 3 in the suit jointly filed I.A.No.824 of 2014 under Order XIV Rule 2(2) of the Code of Civil Procedure, 1908 seeking to take up the question of limitation as a preliminary issue. The said application was dismissed by the trial Court forcing the 2<sup>nd</sup> defendant alone to come up with the above revision.

As rightly observed by the trial Court, the question of limitation is a mixed question of fact and law. Under the amended provisions of Order XIV Rule 2, the Court is obliged to pronounce judgment on all issues, notwithstanding the fact that a case may be disposed of on a preliminary issue. Sub-rule (2) of Rule 2 of Order XIV carves out an exception, by providing that whenever a suit can be disposed of on an issue of law only, such an issue can be tried first, but that issue should relate to (a) the jurisdiction of the Court, or (b) a bar to the suit created by any law for the time being in force.

The question of limitation will not fall under anyone of the two clauses, viz., clause (a) or (b) of sub-rule (2) of Rule 2 of Order XIV. Therefore, dismissal of the application for trying the question of limitation as a preliminary issue is in order. The Civil Revision Petition is hence dismissed.

As a sequel, pending miscellaneous petitions, if any, shall

stand closed.

3<sup>rd</sup> June, 2016  
Js.

**JUSTICE V. RAMASUBRAMANIAN**