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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

SECOND APPEAL NO. 476 OF 2017

Vishwanath s/o Dattatraya Jadhav,
(Manusmare), Age: 61 years,
Occ: Business, R/o. Behind Moti
Mahal, Subhash Road, Beed, Dist. Beed
At present Surekh Vishva Krantinagar
Nagar Road Beed. ..APPELLANT

VERSUS

The General Manager,
Bharat Sanchar Nigam Limited,
Telephone Bhavan, Beed,
Administrative Building,
District Beed. ..RESPONDENT

Mr N.L. Jadhav, Advocate for appellant;

CORAM : N.W. SAMBRE, J.

DATE : 11th JULY, 2017

ORAL ORDER :

The telephone bills remained outstanding against the present appellant, for the period from 01.01.1995 to 01.05.1995, for recovery of which Special Civil Suit No. 125 of 1999 came to be initiated by Government of India in the Court of Joint Civil Judge, Senior Division, Beed. The suit

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came to be dismissed as barred by limitation, against which appeal was carried to learned District Judge, Beed being Appeal No. 93 of 2012, which came to be allowed vide judgment and order dated 24th March, 2017. As such, this second appeal.

2. Mr. Jadhav, learned Counsel for the appellant would urge that Bharat Sanchar Nigam Limited (for short, 'BSNL') was constituted on 30th September, 2000, suit at the behest of BSNL cannot be considered to be one under the provisions of Article-112 of the Limitation Act, but it has to be considered that same is under the provisions of Article-14 of the Schedule attached to Limitation Act. So as to substantiate his contention that BSNL is not Central Government, he would invite attention of this Court to the judgment of Apex Court in the matter of ***Bharat Sanchar Nigam Limited vs. Pawan Kumar Gupta*** reported in ***2016(1) SCC 363***.

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3. Learned trial Court, while dismissing the suit of the respondent, has observed that the claim was not within limitation, as the suit though was filed by Central Government, subsequently persuaded by BSNL, which is not Central Government and as such, limitation prescribed under Article-14 would attract.

4. Learned lower appellate Court reconsidered the said issue and noted that the suit has to be considered within ambit of Article-112, which prescribes limitation of 30 years.

5. What could be gathered from the proceedings of the Courts below is, suit was initially instituted by Central Government alleging cause of action as narrated in the plaint, which provides limitation of 30 years in view of provisions of Article-112 suit being initiated by Central Government.

6. In 2000, BSNL was incorporated, a Company

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of Central Government, who has taken over litigation and was accordingly substituted as plaintiff in the suit. Consideration for such substitution was, BSNL inherited all assets and liabilities including that of litigation.

7. The fact remains that for filing suit for recovery, cause of action has arose to the Central Government, for which, admittedly limitation is 30 years. Once the suit was brought into action, it is really difficult to appreciate that just because BSNL, a Government Company was formed and substituted as plaintiff. Later, limitation is to be considered as per Article-14. The cause of action for filing of the suit has arose to Central Government, which was formed to be a basis for initiation of the suit. The lower appellate Court while relying upon the judgment of Punjab and Haryana High Court in Vipin Kumar Jain vs B.S.N.L. and another delivered in RSA No.3829 of 2009 decided on 8th January, 2014 has already considered the judgment of Apex Court in the matter of **Bharat**

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Sanchar Nigam Limited vs Pawankumar and ruled in favour of plaintiff-BSNL.

8. The view expressed by learned lower appellate Court appears to be correct one, as in my opinion also, the issue of limitation will be governed by Article-112, which provides for 30 years of limitation.

9. No case for interference, in second appellate jurisdiction, is made out. Second Appeal fails, stands dismissed.

(N.W. SAMBRE, J.)

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