

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL REVISION APPLICATION NO. 234 OF 2015

(Ecofriend Environment Solution Pvt. Ltd. Through Shri
Vinit Pandurang Deore Vs. The Municipal Corporation,
Parbhani through its Commissioner)

AND

CIVIL REVISION APPLICATION NO. 235 OF 2015

(Ecofriend Environment Solution Pvt. Ltd. Through Shri
Vinit Pandurang Deore Vs. The Municipal Corporation,
Parbhani through its Commissioner)

Mr. P.N. Kalani, Advocate for the Applicant
in both Revision Applications

Mr. Satyajit S. Bora, Advocate for the Respondent
in both Revision Applications

CORAM : SANGITRAO S. PATIL, J.

DATE : 27th JUNE, 2017

COMMON ORDER :

Heard the learned counsel for the applicant and
the learned counsel for the respondent.

2. The applicant has challenged the judgments and decrees dated 5th January, 2015 passed in Special Summary Suit Nos.01 of 2013 and 02 of 2013 by the learned Joint Civil Judge, Senior Division, Parbhani, whereby the suits came to be dismissed as the claims were found to be beyond the period of limitation.

3. As the parties to both these suits are common

and common questions of law and facts are involved in these suits, these applications are being decided by this common order.

4. The copies of the complaints are produced on record. The causes of action for filing these suits are the cheques dated 31st December, 2009 and 25th February, 2010, respectively which were bounced on 9th January, 2010 and 9th March, 2010, respectively.

5. There is no dispute that the cheque is basically a Bill of Exchange. Since both the suits are based on the above-numbered cheques, the suits would be governed by Article 35 of the Limitation Act. Consequently, the suits ought to have been filed within a period of three years from the respective dates of issuance of the said cheques. The suits were filed beyond the period of three years as prescribed in Article 35 of the Limitation Act.

6. The learned Trial Judge has rightly considered the point of limitation with reference to the facts of the suits and rightly dismissed the suits since they were instituted beyond the prescribed period of

limitation.

7. The learned counsel for the applicant submits that the objection as to the limitation was not even raised by the respondents and the learned trial Judge at his own considered the question of limitation and dismissed the suits. This contention has no substance since as per sub-section (1) of Section 3 of the Limitation Act, although limitation has not been set up as a defence, the suits were liable to be dismissed if they are filed beyond the prescribed period.

8. The learned counsel for the applicant submits that Article 18 of the Limitation Act would be applicable to the above-numbered suits. The said Article prescribes the period of limitation of three years for institution of the suit for the price of the work done by the plaintiff for the defendant at his request, where no time is fixed for payment and the period of limitation begins to run when the work is done. As stated above, the above-numbered suits were based on the cheques only, consequently Article 18 would not at all be applicable thereto.

9. In view of the above facts and circumstances of the case, I do not find any substance in the applications. They are liable to be dismissed. Hence, I pass the following order:-

ORDER

- (i) The Civil Revision Applications are dismissed.
- (ii) No costs.

[SANGITRAO S. PATIL]
JUDGE

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