

***IN THE HIGH COURT OF BOMBAY AT GOA***

***CIVIL REVISION APPLICATION NO. 31 OF 2017***

Archdiocese of Goa, Daman & Diu,  
Represented through its Procurator,  
Archdiocese of Goa and Daman,  
Bishop's Palace,  
Altinho, Panaji, Goa.

... Applicant

Versus

Shri Ravindra C. P. Navelkar,  
son of late Shri Sharadchandra P.  
Navelkar, aged 65, resident of 628,  
Kadamba Depot Road, Alto Porvorim,  
Bardez-Goa.

... Respondent

Mr. J. E. Coelho, Senior Advocate with Mr. Vinod V. Korgaonkar,  
with Ms. Jocelyn Godinho, Advocates for the Applicant.  
Mr. S. M. Volvoikar, Advocate with Mr. Sukant Halarnkar, Advocate  
for the Respondent.

***Coram : N.M. Jamdar, J.***

***Date : 17 November 2017.***

**ORAL ORDER:**

Heard learned Counsel for the parties.

2. By this Revision Application, the Applicant has challenged the order passed by the learned Civil Judge Senior Division North, Mapusa rejecting the application under Order 7 Rule 11 of CPC taken out by the Applicant-Defendant. The Application was on the ground that the suit is barred by limitation

and it does not disclose any cause of action.

3. Mr. J. E. Coelho, learned Senior Advocate appearing for the Applicant submitted that on the face of it the suit is barred by limitation and, therefore, the entire trial is not necessary and the learned Civil Judge should have considered the application and not deferred the decision at the time of the conclusion of the trial. Mr. S. M. Volvoikar, learned Counsel for the Respondent supported the impugned order and submitted that most of the grounds have been given up, including one regarding the cause of action.

4. I have gone through the impugned judgment and order. The learned Civil Judge has found that the issue needs recording of evidence and therefore this cannot be decided at this stage and the entire trial will have to be conducted. Though this is a possible view of the matter to be taken, I am of the opinion that to put an end to the controversy at the earliest, it would be appropriate if the learned Civil Judge frames a preliminary issue on the aspect of limitation and decides the same within a time bound period.

5. Accordingly, the Revision Application is disposed of by directing the learned Civil Judge Senior Division, Mapusa to frame the preliminary issue as to whether the suit filed by the Respondent-Plaintiff is in time and decide the preliminary issue within a period of

six months from the date the order reaches the Court. It will be open to the learned Civil Judge to call upon the parties to lead evidence if necessary for the decision on this issue. The Revision Application is, accordingly, disposed of.

6. Registry to communicate the order to the concerned Court at the earliest.

***N.M. Jamdar, J.***