

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION No. 139 OF 2017

M/s. Maneklal and Co. & Ors. ... Applicants
Vs.
The Greater Bombay Construction & Ors. ... Respondents

Mr. Devang Rohit Sanghvi, applicant No. 2 appearing in person for all the applicants.

Mr. Mahadev R. Desai, Advocate for the respondents.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **30th June, 2017.**

P.C.:

This Civil Revision Application is directed against the order dated 13th February, 2017 passed by the learned Judge of City Civil Court, Mumbai thereby partly allowing the Notice of Motion, which was moved under Order 7 Rule 11 of Code of Civil Procedure. The respondent No. 1/original plaintiff has filed the suit for trespass and possession against the defendants in the year 2006. The applicants, after demise of Late Rohit M. Sanghvi (father), who is one of the defendants, were brought on record and appeared before the Court in June or July, 2016. Thereafter, applicants filed additional written statement and on 20th December, 2016 the applicants moved Notice of Motion on the ground that the suit is beyond limitation and no

cause of action is made out and, therefore, the suit is to be rejected under Order 7 Rule 11 of Code of Civil Procedure. The learned Judge of the City Civil Court, after considering the Notice of Motion, did not reject the suit but framed the issues on the basis of objections raised by the defendants. Hence, this Civil Revision Application.

2. The applicant No. 3/party-in-person has grievance that the learned Judge of the City Civil Court did not allow him to register the Motion. The Motion was thereafter not properly heard. He submitted that at the earlier stage, when he got this Application, he moved the Notice of Motion under Order 7 Rule 11 of CPC and at any stage, such application can be moved before the trial Court.

3. The learned counsel for the respondents opposed this Civil Revision Application.

4. On query, it was informed that as on today, the suit is partly heard. It is found that evidence of the plaintiff is over. The affidavit-in-chief of the late father is on record, however, in respect of some documents, the applicants wanted to cross-examine the plaintiff. The said issue is to be tried and decided by the trial Court. However, it

appears that the trial is in process. Considering the points raised in the Notice of Motion and after going through the averments in the plaint, I am of the view that nothing can be faulted with the order passed by the learned Judge of the City Civil Court. Hence, Civil Revision Application is dismissed.

5. It is a suit of 2006, hence trial Court to expedite the hearing of the suit. All the parties to cooperate the trial Court.

(MRIDULA BHATKAR, J.)