

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 2956 OF 2017

M/s. Renuka Exports Pvt. Ltd. ... Petitioner
Vs.
The Union of India & Anr. ... Respondents

Mr. Rahul Totala i/b. Mr. Abhineet N. Pange, Advocate for the petitioner.
Dr. G.R. Sharma a/w. Mr. D.P. Singh, Advocate for respondent No. 1.
Mrs. Pavitra Manesh i/b. Vaishali Bhilare, Advocate for respondent No. 2.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **4th April, 2017.**

P.C.:

Rule. Rule made returnable forthwith. By consent, Writ Petition is heard finally and disposed of.

2. This Writ Petition is directed against the order dated 15th February, 2017 passed in Suit No. 8544 of 1995 thereby refusing to take and register Notice of Motion under Order VII Rule 11 of Code of Civil Procedure.

3. The learned counsel for the petitioner submitted that the learned trial Judge did not allow the petitioner to argue his case, as

the registration of Notice of Motion was refused. He further submitted that the Application challenging the jurisdiction and limitation is ought to have been considered by the learned trial Judge and opportunity should have been given to argue his case, as he has valid ground to show that the suit is time barred. He further submitted that said application under Order VII Rule 11 of C.P.C. can be moved at any stage and therefore, the order passed by the learned trial Judge is illegal and is to be set aside.

4. The learned counsel for respondent no.1-Union of India submitted that the suit is of the year 1995. The suit is filed for recovery of money from the present petitioner and respondent No. 2-Canara Bank. Affidavit-in-chief is already filed by the Union of India and the matter is fixed tomorrow for cross-examination of the petitioner/defendant.

5. It is true that there is no bar that the application under Order VII Rule 11 of C.P.C. can be filed at any stage of the proceeding, however, it is expected that it is to be filed within reasonable time. The fact which the learned trial Judge has rightly taken into account that the suit is very old and pending since last 20 years and it is to be

decided soon. Moreover, the learned trial Judge in his order has mentioned that separate issue on the point of limitation is already framed and has expressed that the parties to proceed and lead evidence on that issue. The trial Court after considering the evidence tendered by the respondent/plaintiff and petitioner/defendant on the point of limitation will be able to adjudicate the same issue effectively. Thus, there is no merit in this Petition. Writ Petition is dismissed.

(MRIDULA BHATKAR, J.)