

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.177 OF 2017

Hiten P. Dalal	 Applicant
V/s.	
Vilas Laxman Ingawale & Ors.	 Respondents

ALONG WITH

CIVIL REVISION APPLICATION NO.178 OF 2017

Prabhavee Private Ltd., Pune	 Applicant
V/s.	
Vilas Laxman Ingawale & Ors.	 Respondents

ALONG WITH

CIVIL REVISION APPLICATION NO.179 OF 2017

Ashok Dattatraya Joshi	 Applicant
V/s.	
Vilas Laxman Ingawale & Ors.	 Respondents

Mr. P.S. Dani, Senior Counsel, a/w. Mr. Nachiket V. Khaladkar, for the Applicants.

Mr. Drupad S. Patil for the Respondents.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 12TH MARCH 2018.

P.C. :

1. Heard Mr. Dani, learned Senior Counsel for the Applicants, and Mr. Patil, learned counsel for the Respondents.

2. By this Revision Application, filed under Section 115 of the Code of Civil Procedure, 1908, the Applicants are challenging the order dated 7th December 2016 passed by the 8th Joint Civil Judge, Senior Division, Pune, below the applications “Exhibit-82”, “Exhibit-83” and “Exhibit-84”, respectively, in Special Civil Suit No.339 of 2016.

3. The applications at “Exhibit-82”, “Exhibit-83” and “Exhibit-84” were filed by the present Applicants, respectively, who are Defendant Nos.4, 5 and 9 before the Trial Court, under Order 7 Rule 11(a), (b) and (d) of the CPC, for rejection of the plaint on the ground that, Suit does not disclose the cause of action, the relief claimed in the Suit is undervalued and the Suit is also barred by limitation. The Trial Court has, after hearing learned counsel for both the parties, was pleased to reject the same holding that, the valuation of the suit claim is properly made, as per Section 6(iv)(ha) of the Maharashtra Court Fees Act, (*hereafter referred to as “Act”*), and in my considered opinion, on that point, the finding of the Trial Court cannot be faulted in any way, as Respondent No.1 has valued the suit claim under Section 6(iv)(ha) of the Act itself and has paid the appropriate court fee thereon. Hence, as regards the valuation of the suit claim, the impugned order of the Trial Court cannot be assailed.

4. Even as regards the next contention that the Suit is apparently

time barred and it does not disclose the cause of action, the Trial Court has again, in this respect, rightly considered that the issue of limitation is a mixed question of fact and law and it can be decided only after the evidence is recorded and at the stage of final hearing. About the disclosure of the cause of action also, the plain reading of the plaint, which is germane for deciding the application under Order 7 Rule 11(a) of CPC, it is clear that, in paragraph No.18, Respondent No.1 has stated that the cause of action arose in the month of April, 2014, when he learnt about the execution of the 'Sale-Deeds' and the 'Memorandum of Understanding'. Hence, the finding recorded by the Trial Court on this point also cannot be called as illegal or perverse, so as to warrant interference therein.

5. The impugned order, therefore, passed by the Trial Court does not call for any interference in the revisional jurisdiction. These Revision Applications, hence, stand dismissed.

[DR. SHALINI PHANSALKAR-JOSHI, J.]