

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.11517 OF 2013

Mangilal Chunilal Oswal & Ors. .. Petitioners
Vs.
Kirichan Surabhadar Bhosale & Ors. .. Respondents

Mr.Mahesh Rawool i/by Mr.A.B. Avhad for the petitioners.
Mr.Rahul S.Kate for the respondent no.1.
Mr.Prabhanjan Gujar for the respondent nos.2 & 5.
Mr.R.P. Kadam, AGP for the respondent no.6A.

CORAM : R.D. DHANUKA, J.
DATE : 17th October 2018

P.C.:

By this petition filed under Article 227 of the Constitution of India, the petitioners have impugned the order dated 30th August 2013 rejecting the application (Exhibit-45) filed by the defendant no.1 requesting the trial Court to frame an issue of limitation. The learned trial Judge has not framed issue of limitation though has framed five other issues on 13th September 2013.

2. In my view, the learned trial Judge ought to have framed an issue of limitation raised by the defendant no.1 in the written statement. The learned trial Judge is accordingly directed to frame an issue of limitation within two weeks from the date of communication of this order. It is however made clear that the issue of limitation will be tried along with the other issues under Order XIV Rule 2 of the Code of Civil Procedure, 1908. Hearing of the suit is expedited.

3. Writ petition is disposed of in aforesaid terms. No order as to costs. The petitioners are directed to convey this order to the trial Court for compliance and record.

R.D. DHANUKA, J.