

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION No. 718 OF 2015

Mrs. Vanita Balkrishna Shetty ... Applicant
Vs.
Chandu Sheradutt Sidhani ... Respondent

Mr. Prashant P. Chawan a/w. Ravindra R. Chile i/b. P.C. Kansara,
Advocate for the applicant.
Mr. J.S. Kini i/b. Suresh Dubey, Advocate for the respondent.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **11th June, 2018.**

P.C.:

This Civil Revision Application is directed against the order dated 9th October, 2015 passed by the learned Judge of City Civil Court, Greater Mumbai thereby rejecting the application questioning the maintainability of the suit on the ground of limitation.

2. The applicant is the original defendant. The plaintiff/respondent has filed the suit for specific performance and the applicant/defendant has raised the objection on the ground of jurisdiction of the Court that the suit is barred by limitation, therefore, preliminary issue was framed by the learned Judge under section 9A of Code of Civil Procedure. Whether the issue of limitation is to be considered as a preliminary issue or not is pending before the

Hon'ble Supreme Court in the case of **Jagdish Shyamrao Thorve vs. Mohan Sitaram Dravid & Ors. in S.L.P(C) 22438 of 2015.**

However, as it is a mixed question of facts and law and as it is sounded in the order dated 2nd December, 2015 by this Court, I am of the view that the issue of limitation is to be settled under Order 14 of Code of Civil Procedure by the trial Court and the parties are directed to lead evidence. The trial Court may decide that issue accordingly. The trial Court to expedite the matter within one year from today.

3. Civil Revision Application is disposed of.

(MRIDULA BHATKAR, J.)