

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

CIVIL REVISION APPLICATION NO. 739 OF 2015

M/s. Alwadi Pashusanvardhan and
Dugdhalaya Sanstha Karjat & Ors.

...Applicants

Versus

Sakib Sidhhiq Khot & Ors.

...Respondents

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Mr. S.M. Gorwadkar, Senior Counsel a/w. Mr. Sujay H. Gangal for
the the Applicants.

Mr. Girish R. Agrawal for Respondent Nos. 1 to 8.

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**CORAM: MRS.MRIDULA BHATKAR, J.
DATED: JULY 02, 2018**

P.C. :

1. This Civil Revision Application is directed against the order dated 14th August, 2015 passed by the learned Jt. Civil Judge, J.D., Karjat thereby rejecting the application below exhibit 44 in Regular Civil Suit No. 5 of 2014.

2. Respondent Nos. 1 to 8, who are the original plaintiffs, have filed a suit for declaration that Sale Deed dated 20th March, 1980 is not binding on them and also claimed undivided share in the suit property.

3. The learned Counsel for the applicants has submitted that the plaintiffs have knowledge of transfer of some portion of the suit land in favour of the defendants. The plaintiffs came to know regarding the Sale Deeds of the suit property dated 20th March, 1980 and 12th February, 2008 in the month of January 2013 and they have instituted the suit for cancellation of the said Sale deeds in the month of January 2014 and, therefore, it is barred by law of limitation.

4. The learned Counsel for respondent nos. 1 to 8 opposed this Application and has supported the order passed by the learned Judge of the trial Court.

5. Perused the impugned order and plaint. While deciding the application filed under Order 7 Rule 11 of the Code of Civil Procedure, 1908, the Court has to see the pleadings and on the basis of the pleadings, the limitation is to be determined. The learned Judge of the trial Court has taken a view that as per pleadings, the cause of action is shown within a period of three years from the date of filing of suit i.e., prior to three years. Hence,

there is no reason to reject the plaint under Order 7 Rule 11 of the Code of Civil Procedure, 1908. The view taken by the learned Judge of the trial Court cannot be faulted with. Hence, Civil Revision Application is dismissed. The trial Court may expedite the suit.

(MRIDULA BHATKAR, J.)