

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.512 OF 2019

Shri.Vinayak Dakta Hande & Ors. ... **Applicants**

Versus

Shri.Sahadev Arjun Hande & Ors. ... **Respondents**

.....

Adv.Hake Patil i/b. Adv.Kalpana K., Advocate for the Applicants.

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CORAM : A.M.BADAR J.

DATED : 5th NOVEMBER 2019.

P.C. :

1 Heard the learned Counsel appearing for the petitioners/original defendants and perused the impugned Order passed below Exhibit 19 on 12/02/2019 thereby rejecting the application of the defendants for rejecting the plaint.

2 The learned Counsel for the petitioners/originals defendants submitted that the suit is barred by limitation and it is filed after a period of 100 years. He argued that the suit is not reflecting any cause of action. Support is drawn from Judgment of the Honourable Apex Court in the matter of *Raj Narain Sarin (dead) through LRs. & Ors. Versus Laxmi Devi & Ors.*¹ and

1 2002 (1) SCC 501.

Madanuri Sri Rama Chandra Murthy Versus Syed Jalal² to buttress this contention.

3 I have considered the submissions so advanced and perused the material placed on record.

4 The suit came to be filed by plaintiffs named Sahadev Hande and Sudesh Hande. They claimed in the plaint that the suit property was purchased by the ancestor Narayan Ragho Hande for valuable consideration and it constitutes joint family property. It is averred in the plaint that the plaintiffs as well as defendants are jointly enjoying the said property. It is further averred that cause of action arose in filing this suit when the defendants obstructed the possession of the plaintiff over the suit property.

5 In the application under Order V Rule 11 of the Code of Civil Procedure it is averred by the defendant that there is no cause of action for filing the suit and the suit is barred by limitation.

6 Perusal of the plaint shows that cause of action is meticulously elaborated in the plaint. The question of limitation is addressed in the plaint by stating that possession of plaintiff over the suit property is obstructed by the defendant on 15/06/2018. The learned trial Court has correctly decided the application by

2 2017 (13) SCC 174.

holding that cause of action is reflected from paragraph 4 of the plaint and question of limitation involved in the suit is a mixed question of law and fact.

7 No illegality can be found in the impugned Order. The Civil Revision Application is devoid of merit and, therefore, the Order :

ORDER

The Civil Revision Application is rejected.

(A.M.BADAR, J.)