

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

CIVIL REVISION APPLICATION NO.231 OF 2019

Ananta Sitaram Naik and Ors. ... Applicants

Vs.

Tarlok Singh Lungani and Ors. ... Respondents

.....

Mr. Rohit D. Joshi for the applicant.

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CORAM : M. S. KARNIK, J.

DATE : 23rd SEPTEMBER, 2019.

P. C.:

1. Heard learned counsel for the applicants.
2. The applicants are the original defendants. The plaintiffs had filed a suit for specific performance of agreement dated 12.01.2013. The defendants had filed an application under Order VII Rule 11 of the Code of Civil Procedure stating that the suit as filed by the plaintiffs is without any cause of action and the suit is barred by law of limitation. The Trial Court has rejected the said application filed by the defendants below Exhibit 22. I have gone through the plaint and order passed by the Trial Court. In view of the reasons recorded, I do not see any reason to interfere with the order passed by the Trial Court.

3. The principal contention of the defendants was that the suit as filed is not within limitation. Learned counsel for the applicants would submit that the observations made by the Trial Court while deciding the application made by the defendants under Order VII Rule 11 of the Code of Civil Procedure will come in the way of defendants when the suit is to be decided on merits.

4. Needless to mention that the observations made by the Trial Court are for the purpose of considering whether the plaint deserves to be rejected under Order VII Rule 11 of the Code of Civil Procedure for want of cause of action. Further needless to mention that the Trial Court shall obviously decide the suit on its own merits without being influenced by any observations made in the impugned order.

5. With these observations, the petition is rejected with no order as to costs.

(M. S. KARNIK, J.)