

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

WRIT PETITION NO.6508 OF 2019
WITH
WRIT PETITION NO.7620 OF 2019

Smt. Anjana Sahebrao Chavan ... Petitioner

Vs

Shri Premchand @ Prem Tejumal Chitriya @
Gurdasani And Ors. ... Respondents

...

Mr. Vijay Patil i/by Mr. Ajit Dilip Hon for the Petitioner.

Mr. Prashant Kamble i/by Mr.A.S.Rao for respondent no.11.

Mr. N.R.Bubna for the Respondent Nos.1 to 4.

Mr. Pradeep D. Dalvi for Respondent No.10.

CORAM : SANDEEP K. SHINDE J.

DATE : JULY 11, 2019

P.C. :

These petitions are filed by defendant no.7 in Special Civil Suit No.344 of 2016, instituted by the respondent nos.1 to 4 herein. The learned Trial Court vide order dated 10th February, 2017 framed the issue of limitation in view of the application filed by defendant no.7 under Order 7 Rule 11(d) of the Code of Civil Procedure, 1908. In this proceedings, petitioner-defendant no.7 requested the trial Court to issue witness summons to revenue

officers before whom the revenue proceedings concerning the suit land were held between defendant nos.1 to 5 and one Mr. Mukhi in the year 2007-08. It is petitioner's case that power of attorney holder of the plaintiffs had applied for copies of this revenue proceedings, which itself shows that, defendants (Defendant Nos.1 to 4) assertion of their right and interest in the suit was within their knowledge in 2007-08. It is, therefore, petitioner's case that suit instituted in 2016 is barred by limitation.

2 The learned trial Court partly allowed the application on 23rd April, 2019; however, refused to summon the witness from the office of Additional Commissioner, Konkan Division. It is against this order, Writ Petition No.6508 of 2019.

3 Petitioner/Defendant No. 7 also sought a leave of the Court to produce on record documents listed in the application below Exhibit 371. The trial Court rejected the said application on 19th June, 2019 against which Writ Petition No.7620 of 2019 is preferred.

4 Heard Mr. Patil the learned counsel for the petitioner and
Mr. Bubna the learned counsel for the respondent nos.1 to
4/Original Plaintiffs.

5 So far as the order declining to summon witnesses from
office of Additional Commissioner is concerned, I am not inclined to
interfere with this order and, therefore, Writ Petition No.6508 of
2019 is dismissed.

6 So far as Writ Petition No.7620 of 2019 is concerned,
Mr . Bubna submits that papers in Revenue proceedings between
defendant nos.1 to 5 and one Mr. Mukhi, concerning the suit
property are already on record, filed by the defendant no.7 and,
therefore, the application as filed by the petitioners below Exhibit
371 is unwarranted. Mr. Bubna submits that Revenue proceedings,
which are filed on record by defendant no.7 reflects and consists of
application filed by the power of attorney holder of the plaintiffs
seeking certified copies of the Revenue proceedings. If that be so, in
my view, there is no impediment in granting the application below
Exhibit 371. In view of this, order dated 19th June, 2019 passed

below Exhibit 371 in Special Civil Suit No.344 of 2016 and application below Exhibit 371 is allowed. Petitions are allowed in the aforesaid terms and disposed of. Needless to say that the the trial Court shall decide probative value of the documents in accordance with law.

(SANDEEP K. SHINDE, J.)