

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 401 OF 2016

M/s. GKD Developers & Ors. ... Petitioners

Vs

Kirti Nishikant Kolhe & Anr. ... Respondents

Mr. S.S. Patwardhan, Advocate for the Petitioners.

CORAM : SANDEEP K. SHINDE J.

DATE : June 18th, 2019

P.C. :

1. Heard learned counsel for the petitioners.
2. Petitioners are defendants in Special Civil Suit No. 317 of 2012 pending in the Court of 3rd Joint Civil Judge, Senior Division, Pune. Petitioners had filed an application under Order 7 Rule 11 of the Code of Civil Procedure contending that the suit is barred by law of limitation.
3. Learned Judge rejected the application, having found from the averments in the plaint that the suit was within limitation. Learned Judge in para no. 10 of the impugned order, upon examining the plaint has held that the suit was filed within three years from the

date of knowledge of the refusal by the defendants to perform their part of contract. In view of the findings recorded in para nos. 10 and 11, I see no reason to interfere with the order. The petition is therefore dismissed.

4. However, the defendants are at liberty to raise the 'issue of limitation' and if such issue is raised, the Trial Court shall decide the said issue on its own merit, without being influenced by the order passed under Order 7 Rule 11 of CPC.

5. With these observations, Civil Revision Application is disposed of.

(SANDEEP K. SHINDE, J.)