

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL REVISION APPLICATION NO.62/2019

Smt. Renu Prakash Chokhani

..Vs..

Smt. Mohini Deepak Bhudhwasni and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri Amit M. Kukday, Advocate for the applicant.
Shri Amit D. Bhate, Advocate for non-applicant Nos.1 to 3.

CORAM : Z.A. HAQ, J.

DATED : 27.8.2019.

Heard.

2] By this revision application, the original defendant has challenged the order passed by the trial Court by which the application filed by her under Order 7 Rule 11 of the Code of Civil Procedure is dismissed. By the application filed under Order 7 Rule 11 of the Code of Civil Procedure, defendant contended that the plaint be rejected as the plaint does not show cause of action against the defendant, and the claim of the plaintiff was barred by limitation. It is well settled that the plaint cannot be rejected under Order 7 Rule 11 of the Code of Civil Procedure on the ground that the plaint does not show any cause of action against the defendant. Plaint can be rejected under Order 7 Rule 11 of the Code of Civil Procedure only if it does not disclose cause of action, and in the present case, I find that the cause of

action is disclosed in paragraph No.7 of the plaint.

3] As far as the other ground is concerned, learned trial Judge has rightly recorded that the issue of limitation is mixed question of fact and law and it will have to be decided after affording opportunity to the parties to prove their case by adducing evidence.

4] After going through the impugned order, I find that the learned trial Judge has rightly dismissed the application under Order 7 Rule 11 of the Code of Civil Procedure. It cannot be said that learned trial Judge has committed any material illegality or irregularity or error of jurisdiction which necessitates interference by this Court under Section 115 of the Code of Civil Procedure. Hence, the civil revision application is **dismissed**. In the circumstances, the parties to bear their own costs.

JUDGE