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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 147 OF 2022**

SHRI BHAGWAN DEVRAM PALWE AND ORS APPLICANTS

V/s.

SHRI MURLIDHAR YADAV PAWAR AND ORS RESPONDENTS

Mr. Sanjay P. Shinde Advocate for Applicants

CORAM : NITIN W. SAMBRE, J.

DATE: APRIL 18, 2022.

P.C.:

- 1) Prayer of the Petitioner-Defendant for rejection of Plaint under Order VII Rule 11 of Code of Civil Procedure, 1908 is rejected vide impugned order dated 29/06/2018.
- 2) In para 4 of the Plaint, Respondent-Plaintiffs have specifically come out with a case that inspite there being Sale Deeds, such Sale Deeds were only for namesake and were not to be acted upon as loan amount was duly repaid. It is specifically stated that possession of the Suit property remained with the Respondent-Plaintiffs which is sought to be disturbed by the Petitioner which has prompted him to file Suit in question.

- 3) The aforesaid pleadings have prevailed before the Trial Court while rejecting for prayer for rejection of Plaintiff.
- 4) I hardly see any reason which warrants interference in the order impugned as while deciding the prayer under Order VII Rule 11 of the Code of Civil Procedure, 1908 for rejection of Plaintiff, particularly on the ground of limitation which is mixed question of facts and law, the Court is required to be sensitive and appreciative of the pleadings in the Plaintiff and not the defence of the Petitioner.
- 5) Apart from above, even if it is claimed that Sale Deeds of 1963 and 1970 are challenged at belated stage, the Trial Court cannot reject the Plaintiff in part as cause of action discloses the possession of the Respondent-Plaintiffs over the Suit property.
- 6) Keeping option to agitate such claim on merits of the Suit, no case for interference is made out.
- 7) As no error of jurisdiction could be noticed, Civil Revision Application stands rejected.

[NITIN W. SAMBRE, J.]