

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

16 CRA NO.199 OF 2023

PROF. SRI. SANJAY BASKAR SHEMKALYANI
VERSUS
DR. VINOD NARAYAN MARATE

...
Advocate for Applicant : Mr. Vinesh C. Solshe.

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CORAM : S. G. MEHARE, J.
DATE : 29.11.2023

PER COURT :-

1. Heard the learned counsel for the applicant.
2. The applicant was the defendant before the court of first instance. He had filed an application under Order VII Rule 11 of the Civil Procedure Code for rejection of the plaint as the suit appears to be barred by the provisions of the Limitation Act. The learned Court of first instance rejected his prayer observing that the cause for the present suit arose after the judgment delivered in R.C.S. No.55 of 2018. Therefore, it is well within limitation.
3. Learned counsel for the applicant has vehemently argued that the prayers of the plaint does not survive. Reading the plaint as a whole, it can safely be inferred that the suit is not

within limitation. The pleadings are not specific on cause of action. Hence, the suit is barred by limitation.

4. The cause of action is a bundle of fact. It is to be gathered from the pleadings. The court of first instance appears to have gone through the pleadings. Therefore, specifically observed that the cause for the present suit arose after the judgment delivered in RCS No.55 of 2018. Therefore, the suit is within limitation. The issue of limitation is a mixed question of facts and laws. Therefore, a detail inquiry is essential and cannot be determined as a preliminary issue.

5. The impugned judgment and order of the learned 8th Joint Civil Judge Senior Division, Ahmednagar passed in R.C.S. No.127 of 2023, below Exh.21 appears legal, correct and proper.

6. Hence, civil revision application stands dismissed at admission stage.

(S. G. MEHARE, J.)

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vmk/-