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

CIVIL REVISION APPLICATION NO.88 OF 2023

Hard Rock Infrastructure
Through Authorised Partner
Khalid Salim Goud

... Applicant

V/s.

Sharbrez Haji Noor Mohammed Qureshi
& Ors.

... Respondents

Mr. Gauraj Shah a/w Mr. V. A. Joshi i/by Chitnis Vaithy
& Co., for the applicant.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 9, 2023

P.C.:

1. The applicant is original defendant No.3 in a suit for declaration and injunction. The prayer clause (a) is in relation to declaration of deed of conveyance dated 11 March 2009. Suit was filed on 15 January 2021, therefore, according to defendant No.3 suit is barred by limitation.

2. On perusal of the plaint, it appears that apart from declaration in relation to deed of conveyance, relief in terms of prayer clauses (b) & (c) are sought. However, on perusal of the plaint, clauses (b) & (c) are not consequential prayers; therefore, in absence of prayer clauses (b) & (c) being barred by law of limitation, the Court could not have rejected the plaint on the

ground that prayer clause (a) is barred by limitation.

3. The next objection raised by defendant No.3 *vide* clause (b) under Order 7, Rule 11 of the Code of Civil Procedure, 1908 is in relation to valuation of suit. According to defendant No.3, the market value of conveyance deed was more than Rs.4 crore.

4. It appears from the record that the Trial Court has postponed adjudication on the said issue after giving opportunity to parties to lead their evidence. Therefore, I am satisfied that no conclusive finding is recorded by the Trial Court as regards defective valuation of the suit. It is, therefore, permissible for the parties to lead evidence in support of their plea that the deed of conveyance is not properly valued for the purpose of court fees, on such evidence being led, the Trial Court shall adjudicate on the issue of valuation of deed of conveyance which is subject matter of prayer clauses (A) & (A-1).

5. Therefore, in my opinion, no interference in the impugned order as called for.

6. The revision application is, therefore, rejected.

(AMIT BORKAR, J.)