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

CIVIL REVISION APPLICATION NO.32 OF 2020

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New Front Housing Through its Partners

Pravin Jagannath Ghadge

... Applicant

V/s.

Ibrahim Shafi Shaikh & Ors.

... Respondents

Mr. Rakesh Reddy with, Mr. Amit Shroff, And Ms. Ashna Shah i/by Mr. Harish Shroff & Co. for the applicant.

Mr. Nikhil Wadikar with Ms. Sejal Jain i/by Mr. Nandu Vishnu Pawar for the respondents.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 21, 2023

P.C.:

1. Challenge in this revision is to the order dated 1st October 2019 passed by 19th Joint Civil Judge, Senior Division, Pune, rejecting defendant's application under Order 7 Rule 11(D) of the Civil Procedure Code, 1908.

2. The respondent No.1 who is original plaintiff has filed a suit seeking a relief of declaration of sale deeds executed in favour of the defendant Nos.3 to 53 as shown in chart one of the plaint. Other reliefs sought in the plaint are in relation to subsequent documents executed by the purchasers who had purchased the suit

properties prior to 2005.

3. The applicant who is original defendant No.2 filed an application under Order 7 Rule 11(D) contending that the plaintiff had knowledge of all the transactions in the year 2005. The averment to that effect is made in the plaint. Therefore, in view of Article 59 of the Limitation Act, 1963, suit as framed is ex facie barred by law.

4. Learned advocate for the plaintiff submitted that though in the plaint it is stated that the plaintiff got knowledge of the sale deed based on revenue record, actual copies of the documents were deliberately not supplied to the plaintiff and unless and until the plaintiff gets copies of sale deed, period of limitation under Article 59 of the Limitation Act could not start.

5. I have carefully perused the plaint. Paragraph 10 of the plaint contains a specific recital that the plaintiff got knowledge of entries in the name of defendant Nos.3 to 53 in revenue record in the year 2005. Therefore, it is clear that the facts entitling plaintiff to get relief of declaration of the sale deeds were within knowledge of the plaintiff in the year 2005. Suit is filed in the year 2018. As per Article 59 of the Limitation Act, 1963, period of limitation starts when the facts entitling plaintiff to have instrument set aside first become known to him. Therefore, the suit as filed is ex facie barred by limitation. Hence, following order:

a) The application below Exhibit-12 in Special Civil Suit No.1514 of 2018 is allowed.

b) Special Civil Suit No.1514 of 2018 is dismissed on the ground of limitation.

6. Learned advocate for the applicant prayed for leave under Article 134(A) of the Constitution of India. Considering issue involved, in my opinion, no ground to grant leave is made out.

7. The civil revision application stands disposed of.

(AMIT BORKAR, J.)