

VRJ

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

WRIT PETITION NO.15728 OF 2023

VAIBHAV
RAMESH
JADHAV
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Mohd. Ishaque Mohd. Hasan Sardar &
Ors. ... Petitioners
V/s.
Muzammil Mohd. Yaqub Sardar & Ors. ... Respondents

Mr. Suraj Gothwal for the petitioner.

CORAM : AMIT BORKAR, J.

DATED : DECEMBER 19, 2023

P.C.:

1. The petitioners are defendants in a suit for possession and declaration. The suit is governed by Article 65 of the Limitation Act, 1963. In such a suit, defendants filed an application stating that the possession become adverse in the year 1976. However, on perusal of paragraph 5 of the plaint, at this stage it is difficult to record a conclusive finding based on averments in the plaint that plaintiffs' possession became adverse prior to twelve years of filing of suit. However, it will be open for the defendants to raise plea of limitation after giving opportunity to both parties to lead evidence. With this clarification, the writ petition stands disposed of. No costs.

(AMIT BORKAR, J.)