

The bar of limitation is a mixed question of law and fact, as such generally would not attract the provision of Order VII Rule 11 of the Code unless such bar is found to be apparent from the averments of the plaint itself, the evidence adduced by the parties in course of the trial of

the suit cannot be taken into consideration to press the said bar into service.

An issue regarding maintainability of the suit has already been framed, the suit is at a very advanced stage, as such it would be appropriate to leave the said issue for the learned Trial Judge to answer on the available materials on record.

With the above, C.O. 426 of 2023 is disposed of, there shall however be no order as to costs.

Parties to act on the server copy of this order duly downloaded from the official website of the Court.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)