

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.26 OF 2024

Deepa Chandrashekar Shetty and Anr. .. Applicant
Versus
Milind Jaykumar Kole .. Respondent

WITH
WRIT PETITION NO.432 OF 2024

Deepa Chandrashekar Shetty and Anr. .. Petitioners
Versus
Milind Jaykumar Kole .. Respondent

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- Mr. Ketan A. Chothani a/w. Mr. Prasad L. Gajbhiye and N. B. Patil, Advocates for Applicant in Civil Revision Application No.26 / 2024 and for Petitioner in Writ Petition No.432 / 2024.
 - Mr. Anilkumar Patil, Advocate for Respondent.
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CORAM : MILIND N. JADHAV, J.
DATE : MARCH 05, 2024

P.C.:

1. Heard Mr. Chothani, learned Advocate for Applicant in Civil Revision Application No.26 of 2024 and for Petitioner in Writ Petition No.432 of 2024 and Mr. Patil, learned Advocate for Respondent in both matters.

2. With the able assistance of Mr. Chothani, I have perused the fundamental facts in the present case. There is a Civil Revision Application as also Writ Petition before me. In one proceeding, rejection of Application filed under Order VII Rule 11 of the Civil Procedure Code, 1908 (for short '**CPC**') is under challenge whereas in

the second proceeding by virtue of rejection of that application, amendment allowed under Order VI Rule 17 of CPC is under challenge.

3. Four fundamental dates are required to be considered in the present proceedings.

3.1. 18.01.1996, is the original Agreement between Plaintiff and Defendants which is subject matter of the suit filed in the year 2005 being Special Civil Suit No.251 of 2005. Under this Agreement, an amount of Rs.2,80,000/- was paid and the entire transaction was to be completed within a period of 11 months. Suit is for specific performance.

3.2. The next date is 02.09.1999, when the Plaintiff issued a notice to the original Defendant to complete the transaction. This notice refers to earlier notice also.

3.3. The next date of which there is contentious argument from both sides is the purported second notice dated 02.04.2003. It is this notice which is the probable bone of contention of the submissions made by the learned Advocates appearing for the respective parties.

3.4. The suit is instituted on 03.05.2003 and in order to bring it within limitation this purported second notice dated 02.04.2003 is being relied upon by the Plaintiff.

4. In view of the above, I have impressed upon both the parties to consider an amicable compromise and settlement in the present matter, undoubtedly without prejudice to the rights and contentions of both the parties in view of the aforesaid dates and events.

5. I am hopeful that Mr. Chothani and Mr. Patil, learned Advocates for respective parties both shall endeavour to do their best to resolve the present dispute between the parties and arrive at an amicable resolution and settlement.

6. Needless to state that any resolution arrived at can put an end to the long standing *lis* between the parties.

7. Stand over to **28th March, 2024 at 02.30 p.m.**

8. In the meanwhile, ad-interim relief granted earlier, if any, to continue.