



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

CIVIL WRIT PETITION NO. 18087 OF 2024

Rakesh Jain

...Petitioner

vs.

Surayya Abedeen Kurwa (Through
Legal Heirs)

...Respondents

Adv. Vedchetan Patil a/w Adv. Sunayana Kashid	Advocate for the Petitioner
Adv. Drupad S. Patil and Mr. Suyash Sule	Advocate for the Respondent No. 2

CORAM : S. M. MODAK, J.

DATE : 11th DECEMBER 2024

P. C. :-

1. Heard learned Advocate Shri Vedchetan Patil for the Petitioner-Defendant and learned Advocate Shri Drupad Patil for the Respondent No. 2.

2. The application is filed as per the provision of Order VII Rule 11 of the Civil Procedure code. It is rejected by the trial Court as per order dated 22.03.2024, on page no. 44. This was filed before the trial Court after framing of the issues and after filing of the affidavit by the

Plaintiff. The application was filed on three grounds. They are as follows:-

(i) Plaintiff does not disclose cause of action,

(ii) Suit is not properly valued

(iii) Suit is barred by law of limitation.

3. Even though application is filed for above three grounds, learned Advocate for the Petitioner is restricting himself only to the ground of the limitation, Court fees and pecuniary jurisdiction. Learned Advocate for the Petitioner is not pressing hard, on an objection about absence of cause of action. He invited my attention to the observations by learned Judge in the impugned order. There is finding to issue no. 3 about the objection of limitation. The learned Judge has considered the joint pursis filed by the Parties.

4. According to learned advocate Mr. Patil still his client got every right to agitate the Limitation Act at any stage. He invited my attention to the following documents:-

a) the averment in the plaint on page no. 45.

b) Ready Reckoner rate 2022 by Vice and Sub-Registrar, Maval District Pune on page no.145.

5. To buttress his submission, he relied upon the following two judgments:-

- (i) *Sardar Gurpreetsingh Gurnamsingh Pander Vs. Sangeeta Bhagchand Bhavle and Ors.* Passed by this Court bench at Aurangabad, dated 03.01.2022.
- (ii) *Dahiben Vs. Arvinbhai Kalyanji Bhanusali (Gajra) Dead Through Legal Representatives and Others*¹

6. According to learned Advocate Shri Drupad S. Patil considering the stage at which this application was filed before the trial Court, best course is available to go on with the trial.

7. Learned Advocate Shri Vedchetan Patil for the Petitioner seeks time to take instructions.

8. Due to paucity of time, matter be kept on 17th December 2024, first on board.

[S. M. MODAK, J.]

¹ (2020) 7 SCC 366