

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)

...Respondent

Mr. Vedchetan Patil	Advocate for the Petitioner
Mr. Drupad S. Patil a/w Mr. Suyash Sule	Advocate for the Respondent No. 4

CORAM : S. M. MODAK, J.

DATE : 17th DECEMBER 2024

P. C. :-

1. When the matter is called out, learned Advocate Shri Drupad Patil is busy before some other Court.

2. Matter is kept back.

Later on

3. Learned Advocate Shri Drupad Patil relied upon the following two judgments:-

(i) Smt. Tarabai Bhausaheb Deokar Vs. Jaywant Mahepati

Balwadkar and Ors. passed by this Court in Writ Petition No.

1659 of 2005, dated 15.12.2009.

(ii) *Madhaorao and Others Vs. State of Maharashtra*¹

4. Learned Advocate Shri Vedchetan Patil invited my attention to the line no. 3 of para no. 3 of the order dated 11.12.2024. It is recorded as “*Learned Advocate for the Petitioner is not pressing hard, on an objection about absence of cause of action*”. He clarified that he will also be harping upon absence of cause of action.

5. Learned Advocate Shri Drupad Patil submitted that the submission recorded in first three lines of para no. 3 is contrary to whatever submission recorded today.

6. In view of that today it is clarified that the Petitioner is harping upon all three grounds:-

(i) Bar of limitation

(ii) Absence of cause of action

(iii) Pecuniary jurisdiction and court fees.

7. Matter be kept on **28th January 2025, first on board.**

8. Interim order granted earlier to continue till next date.

[S. M. MODAK, J.]

¹ (1971) 1 SCC 542