



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CIVIL REVISION APPLICATION (CRA) NO.64 OF 2024

[Sanjay S/o Shriramji Pendharkar ..Vs.. Sumitradevi Wd/o Bajrangilal
Agrawal and Ors.]

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Mr N. G. Jetha, Advocate for Applicant.

CORAM : M. W. CHANDWANI, J.

DATE : 2nd APRIL, 2024.

. Heard Mr N. G. Jetha, learned counsel for applicant.

2. The application of the applicant/original defendant filed under Order VII Rule 11 of the Code of Civil Procedure, 1908, came to be dismissed. The said application was filed by the applicant on the premise that the suit is barred by the law of limitation. The principles contention before the learned Trial Court were that deceased father of the plaintiff had issued a notice on 26.09.2012 to the present applicant for asking him to perform his part of contract and the suit for specific performance of the part of contract has been filed by the plaintiff in the month of January – 2017. Therefore, the suit is barred by law of limitation.

3. Perusal of plaint goes to show that there are pleadings that after issuance of notice, the applicant approached the deceased father of the plaintiff and sought time for performance the part of contract from time to time. It is also pleaded in the plaint that after the death of Bajrangilal Agrawal, the plaintiff No.2 approached the applicant to

assure him that he is ready and willing to perform the part of contract. The plaint further depicts that the applicant tried to sale the suit property in the year - 2016. The non-applicants objected to his action and issued a public notice in the year – 2016, and thereafter, the applicant approached to the plaintiffs and assured them performance of part of contract. Thus, from the averments made in the plaint, it cannot be said that the suit is barred by law of limitation, therefore, I do not find merit in the application. Accordingly, the civil revision application is **dismissed**.

4. It is to be mentioned here that the present application as well application under Order VII Rule 11 have been decided on the averments made in the plaint. The applicant will be at liberty to raise all contentions by disputing the contents of plaint in his written statement.

(JUDGE)