



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Misc. Civil Application (MCA) No. 683 of 2023

in

Second Appeal No. 176 of 2021

Arvind S/o Narayan Zurmure and others

Versus

Rohini W/o Ramesh Khawase and another

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri S.P.Kshirsagar, Advocate for the applicants.

Shri P.P.Kothari, Advocate for the non-applicants.

CORAM : ANIL S. KILOR, J.

DATED : 16th FEBRUARY, 2024.

This is an application filed by the respondent seeking review of the judgment dated 26th April, 2023.

2. The only argument made by Shri Kshirsagar, learned counsel for the applicant is that in the cross-examination of the plaintiff, he has admitted the fact of knowledge of the Will-Deed and the fact that by way of the said Will-Deed property was distributed upon two brothers. He therefore submit that since the plaintiff had knowledge of the Will-Deed in the year 2012, the limitation starts running from the said point.

3. He has drawn attention of this Court to the cross-examination of the plaintiff wherein she states that it is true that her father executed a Will-Deed in favour of her two brothers. Shri Kshirsagar, learned counsel for the

applicants therefore submits that this admission is sufficient to hold that the plaintiffs had knowledge from 2012.

4. On the other hand, Shri Kothari, learned counsel for the non-applicants submits that this is not the admission in respect of knowledge from 2012 but this was the knowledge which she disclosed relates to the date of cross-examination. It is submitted that there is no such admission that she had knowledge from the year 2012.

5. It is pointed out that, on the contrary there was a specific query put to her during the cross-examination that, why was the suit not filed till 2017 though she got the knowledge about the sale-deed in the year 2012? To which she answered in clear terms that because she did not have the copy of Will-Deed and not aware of the contents of the Will-Deed, hence, the suit was not filed till 2017.

6. In the above referred backdrop, I find substance in the submission of the learned counsel Shri Kothari that portion of the cross-examination which the learned counsel for the applicants is referring as an admission to have the knowledge since the year 2012.

7. In that view of the matter, there is no any error committed by this Court. Accordingly, the review application is rejected.

[ANIL S. KILOR, J.]