



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

921 CIVIL REVISION APPLICATION NO. 62 OF 2011

B. C. Biyani
Died through L.R.s

1. Smt. Kantabai Bansilal Biyani
Age : 62 years, Occu: Household,
r/o Mamta Palace, Professor Colony,
Jamner Road, Bhusawal,
Tq. Bhusalwal, Dist. Jalgaon
 2. Manoj Bansilal Biyani
Age : 44 years, Occu: Business
R/o As above.
 3. Vinod Bansilal Biyani
Age : 42 years, Occu : Household,
R/o As above.
 4. Mamta Shrikant Kalantri
Age : 35 years, Occu: Household,
r/o Kumud Apartment, Jyotinagar,
Aurangabad
- ...Aplicant

VERSUS

Union of India
Through its Secretary,
Deputy Chief Engineer
(Construction) W.C.R.
Khandwa, now at Bhopal

...Respondent

...

Mr. Shah Subodh P., Advocate for the Petitioner
Mr. M. N. Navandar, Adv. for Respondent/sole

**WITH
CIVIL APPLICATION NO. 2598 OF 2013 IN CRA/62/2011**

...

CORAM : ROHIT W. JOSHI, J.

DATED : 13th JUNE 2025

JUDGEMENT :-

1. The present Revision Application takes exception to judgment and order dated 28.02.2011 passed by the learned 3rd Joint Civil Judge Senior Division, Jalgaon in Civil Miscellaneous Application No.593 of 2005 holding that he did not have jurisdiction to decide the application under Section 34 of the Arbitration and Conciliation Act, 1966 (for short “the Act”), filed by respondent in present Revision Application and having held so it further ordered the application to be returned for presentation before the learned Principal District Judge on or before 21.03.2011. The applicants are aggrieved by the subsequent direction returning the application for presentation before the Competent Court.

2. Mr. Shah, the learned Counsel for revision petitioner places reliance on a judgment of this Court in the matter of ***Lt. Col. Anil Bhat & Ors. V. Citibank, N.A***¹ to contend that power to return a plaint is available with a Civil Court only in case where the Civil Court has the subject matter jurisdiction over the dispute and lacks either the territorial jurisdiction or pecuniary jurisdiction. He contends that in

1 AIR 2009 Bombay 99

cases where the Civil Court lacks subject matter jurisdiction it is duty bound to dismiss the suit for want of jurisdiction and since it lacks the subject matter jurisdiction itself it will not even have the jurisdiction or authority to pass consequential orders such as return of plaint. He further contends that order 7 Rule 10 of the CPC only permits a Civil Court to return of plaint and since an application under Section 34 of the Arbitration and Conciliation Act is not a plaint, the power to return the said application for presentation before the Competent Court will not be available.

3. On perusal of the Division Bench judgement of this Court as also the judgment of the Hon'ble Supreme Court in the matter of ***Raizada Topandas & Anr. v. M/s. Gorakhram Gokalchand***² on which reliance is placed in the Division Bench, it is clear that the learned Civil Court did not have jurisdiction to pass order to return the plaint for presentation before competent Court since it lacked the subject matter jurisdiction.

4. In this regard it needs to be mentioned that the term 'Court' is defined under Section 2(e) of the Act to mean Principal Civil Court of original jurisdiction in a District which according to Section 7 of the

2 AIR 1964 SC 1348

Maharashtra Civil Courts Act, 1869 is the Principal District Judge and not the Court of Civil Judge Senior Division. It is thus clear that the learned Civil Judge lacked the subject matter jurisdiction and consequently it also lacked jurisdiction to pass order for returning the application for presentation before the competent Court.

5. The learned Counsel for respondent states that pursuant to the order passed by the learned Civil Court, the application under Section 34 is infact presented before the learned District Court on 21.03.2011. The award in the present matter was passed on 15.03.2005. According to the respondent, the award was served on it on 21.04.2005. Thereafter, Section 34 application was filed on 11.07.2005. The said application is dismissed for want of jurisdiction on 28.02.2011. It is now well settled that Section 14 of the Limitation Act is applicable to proceedings filed under Section 34 of the Act. It is informed that application under Section 14 is filed by the respondent (Original Applicant) before the learned District Court.

6. In view of the aforesaid, the Civil Revision Application is allowed in the following terms :

(i) The judgment and order holding that the learned Civil

Court did not have the jurisdiction is upheld and consequent direction directing return of Civil Miscellaneous Application No.593 of 2005 for presentation before the District Court, Jalgaon is quashed and set aside.

(ii) Parties are directed to appear before the learned District Court on 30.06.2025. Parties to note that fresh notice for appearance will not be issued in the matter.

(iii) The learned District Court is directed to decide the application under Section 14 of the Limitation Act, 1963 on its own merit on or before 31.07.2025.

(iv) In the event the application under Section 14 is allowed, the learned District Judge is further directed to decide Miscellaneous Civil Application on merits on or before 31.12.2025 having regard to the long pendency of the matter.

7. Civil Revision Application is accordingly disposed of with no order as to costs.

8. Pending Civil Applications, if any stand disposed of.

(ROHIT W. JOSHI, J.)