



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

WRIT PETITION NO. 9867 OF 2024

Sugriv Jagannath Nagargoje

VERSUS

Shashikant Haribhau Bembade Through Poa Pradeep
Haribhau Bembade

...

Mr. B. R. Kedar, Advocate for the Petitioner

Mr. M. P. Kale and, Advocate for Respondent

.....

CORAM : ROHIT W. JOSHI, J.

DATED : 01ST JULY, 2025

PER COURT :-

. Application filed by the petitioner/original defendant in Regular Civil Suit No.47 of 2014 came to be rejected by the learned Joint Civil Judge, Junior Division, Renapur. The present petition is filed challenging the said order.

2. Perusal of the application at Exhibit 115, on which the impugned order is passed will demonstrate that the same is lacking in all particulars.

3. Learned Counsel for the petitioner makes a motion to withdraw the petition with liberty to file a detailed application for framing additional issue.

4. He makes a submission that rejection of application at Exhibit 115 should not come his way for filing appropriate application. The suit is a suit for injunction. Section 3 of Limitation Act provides that Court shall dismiss every suit if it is barred by limitation even if limitation is not setup as a

defence. In that view of the matter, the request deserves to be granted.

5. The Writ Petition is **disposed** of as withdrawn with liberty to the petitioner to file appropriate application for framing of additional issue on the point of limitation. The said application, if filed, will be decided on its own merits in accordance with law, particularly having regard to mandate of Section 3 of the limitation.

(ROHIT W. JOSHI, J.)