

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

11 CRA NO. 27 OF 2025

Dineshkumar K. Jethliya Died Thru. Lrs. Netal N. Jethliya Thru.
Guardian Deepa S. Mandhana And Ors.

VERSUS

Gajanan Laxmanrao Shinde

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Advocate for applicants : Mr. Sikchi Aditya N.

CORAM : S. G. CHAPALGAONKAR, J.

Dated : January 28, 2025

PER COURT :-

1. Heard Mr. Sikchi, learned advocate appearing for the applicants.

2. The applicants are original defendants in special civil suit no.515 of 2024 instituted by respondent/plaintiff seeking specific performance of contract based on agreement to sale dated 9.3.2013. The applicant/defendants appeared in the suit and filed an application for rejection of the plaint under order 7 Rule 11 of the CPC on the ground that on the basis of the pleadings in the plaint itself suit is barred by the limitation. Mr. Sikchi invites attention of this Court to the pleadings in paragraph no.11 of the plaint which suggests that in 2016 itself, the plaintiff was aware about mutation entry in the name of legal heirs of vendor. Further, they refused to perform part of the contract.

3. In that view of the matter, according to Mr. Sikchi, limitation period of three years in terms of Article 54 would

apply from the date of refusal. He would therefore urge that the plaint ought to have been rejected.

4. Considering the submissions advanced, issue notice to the respondents, returnable on 25.2.2025.

5. The applicants shall be at liberty to serve respondents by any alternate mode in addition to the court service and file affidavit of service by the returnable date.

(S. G. CHAPALGAONKAR, J.)

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