IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO.761 OF 2023

Parijat Agencies Akluj
Through, Proprietor,
Sou. Reshma Gajkumar Phade
Age:- 60 Occup:- Business
R/o. Mahavir Path, Akluj,
Tal. Malshiras, Dist. Solapur. ..Applicant

Versus

Shri. Rikhavlal Changanlal Phade,
Age:- 80 years, Occu.:- Chartered Accountant
R/o. At Behind Hange Chowal, Mahavir Path
Akluj, Tal. Malshiras, Dist. Solapur. ..Respondent

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Mr. R. D. Phade, Advocate for Applicant.
Mr. Sangramsinh Yadav, Advocate for Respondent.

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CORAM : S. G. CHAPALGAONKAR, J.
DATED : 19th NOVEMBER, 2025.

FINAL ORDER:-

1. The applicant impugns order dated 04.09.2023 passed by Civil Judge Senior Division, Malshiras below Exhibit-19 in Special Civil Suit No.342/2022, whereby applicant's application for rejection of plaint under Order VII Rule 11(d) of Code of Civil Procedure has been rejected. (Hereinafter, parties are referred to by their original status for the sake of convenience and brevity).

2. The respondent/plaintiff instituted Regular Civil Suit No.342/2022 seeking recovery of amount of Rs.25,05,000/- from defendant. It is contention of plaintiff that he is Chartered

Accountant. The defendant runs business. The mother of defendant is real sister of plaintiff. His sister persuaded him to extend financial aid to defendant. Therefore, he paid total amount of Rs.26,00,000/- by way of hand loan. The defendant refunded Rs.1,00,000/-. However, there is balance of Rs.25,00,000/- with her. When plaintiff demanded amount, defendant refused to pay the same. Hence, he filed suit.

3. The defendant caused appearance and refuted plaintiff's claim. She has also filed application under Order VII Rule 11(d) of Code of Civil Procedure seeking rejection of plaint on the ground that plaintiff is indulged in money lending business. The defendant has paid interest amount. Therefore, suit is barred in terms of Section 6 of Bombay Money Lending Act r/w provisions of Maharashtra Money Lending Act, 2014. The Trial Court rejected said application vide impugned order dated 04.09.2023.

4. Mr. Phade, learned Advocate appearing for petitioner submits that respondent does not possess money lending license. He is seeking recovery of amount advanced by way of loan. In absence of license under provisions of Maharashtra Money Lending Act, he cannot institute suit. It is also contended that suit is barred by limitation.

5. Perusal of impugned order would show that Trial Court has elaborately considered contentions raised by petitioner and rejected same by recording elaborate reasons. It is trite that, application under Order VII Rule 11(d) of Code of Civil Procedure can be decided only on the basis of averments in plaint and documents appended thereto. In present case, plaintiff has specifically pleaded that he advanced hand loan to defendant in view of close relationship. The plaintiff is not seeking recovery of money lend by him in capacity of money lender. In that view of matter, bar under provisions of Maharashtra Money Lending Act would not attract. If defendant wish to establish that plaintiff unauthorizedly deals in money lending business or she has repaid certain amount towards interest, it is for her to establish same by leading cogent evidence during course of trial. By reading of plaint and documents appended thereto, no inference can be drawn that plaintiff is claiming recovery of amount pertaining to money lending transaction.

6. The second contention that suit is barred by limitation is elaborately dealt by Trial Court in paragraph no.11 of judgment. The plaintiff pleaded cause of action dated 10.06.2022, when defendant refused liability to refund amount. The plaintiff has specifically pleaded that on 15.10.2021, defendant paid amount of Rs.1,00,000/- to him. The present suit is instituted on 19.07.2022. Therefore, even

from last date of acknowledgment of dues, suit can be considered within period of limitation.

7. Needless to state that, defendant would be entitled to refute plaintiff's contentions. However, for that purpose, trial and recording of evidence would be necessary. The plaint can be rejected on the ground of limitation only when from contents of plaint or documents appended thereto depicts that suit is barred by limitation. In present case, petitioner could not demonstrate aforesaid situation.

8. In result, no jurisdictional error can be found in impugned order. Hence, Civil Revision Application stands rejected.

(S. G. CHAPALGAONKAR)
JUDGE