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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 242 OF 2024

Shobha Vasant Bhoir Thr.Applicants
POA, Satpal Singh Jaimalsingh
Chawla and Ors

Vs.

Smt. Soni @ Vandana GurumkhadasRespondents
Jagiasi and Ors

Mr. Girish Agrawal a/w Mr. Shubham Jangam i/b Mr. Manish
Bhatia for the applicants
Mr. Nikhil Teckwani for the respondents

IRESH
MASHAL

CORAM : GAURI GODSE, J.

DATE : 30th JUNE 2025

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ORDER:

1. Heard learned counsels for the parties. This Civil Revision Application is filed by defendant nos. 1 to 4 to challenge the rejection of the application under Order VII Rule 11(d) of Code of Civil Procedure, 1908 ('CPC').

2. Learned counsel for the applicants submits that the plaintiffs though claim a declaration based on an agreement dated 21st

August 1984 executed by the predecessor-in-title of defendant nos. 1 to 3, the substantive relief in the suit is prayer clause (c). He submits that prayer clause (c) seeks directions against defendant nos. 5 to 7 for executing and registering the conveyance under The Displaced Persons (Compensation and Rehabilitation) Act, 1954 ('the said Act') in favour of the plaintiffs based on the agreement dated 21st August 1984. He, therefore, submits that prayer clause (c) is a substantive prayer in the suit and if the plaintiffs are not held entitled to prayer clause (c), other prayers in the suit would be inconsequential. He submits that in view of Section 36 of the said Act, there is bar to Civil Court's jurisdiction seeking any relief against the competent authority under the said Act. He, therefore, submits that the suit is barred in view of Section 36 of the said Act.

3. Learned counsel for the applicants further submits that the plaintiffs have though pleaded cause of action based on the order passed by this Court on 17th November 2021 in Writ Petition No. 2859 of 2019, in the earlier paragraphs from paragraph 21 of the plaint, the cause of action seen is from February 2018. He, thus,

submits that the plaint is also liable to be rejected on the ground that it is barred by limitation. Learned counsel for the applicants further submits that the trial Court erred in not correctly appreciating the bar under Section 36 of the said Act and the point of limitation based on the pleadings in the plaint which shows that the suit is barred by limitation.

4. I have carefully perused the plaint. The substantive prayer of the plaintiffs is prayer clause (c) where the plaintiffs claim declaration that the suit agreement dated 21st August 1984 executed by deceased Tukaram Bhoir in favour of the plaintiffs is legal, valid, enforceable and binding upon the defendants. The plaintiffs have also prayed for similar declaration in respect of power of attorney dated 28th February 1991. Based on the substantive declarations of agreement dated 21st August 1984 and 28th February 1991, the plaintiffs have prayed directions against defendant nos. 5 and 7 i.e. competent authority to execute the registered conveyance in favour of the plaintiffs. Remaining prayers in the suit are based on rights claimed by the plaintiffs on the basis of the agreement and the power of attorney. The

plaintiffs have also prayed for a declaration that the registered sale deed dated 15th March 2019 executed by defendant nos. 1 to 3 in favour of defendant nos. 10 and 11 is illegal and not binding upon the plaintiffs. Similar prayer of declaration is also made with regard to other three sale deeds executed by defendant nos. 1 to 3 in favour of defendant nos. 12, 13 and 14. Thus, based on the prayers for declaration, the plaintiffs have also sought injunction and decree of possession.

5. The pleadings with regard to cause of action is found in paragraphs 41 to 43. The plaintiffs had initially filed Writ Petition No. 2859 of 2019 which was dismissed on 17th November 2021. In the order dated 17th November 2021, this Court observed that the plaintiffs without filing any substantive civil suit to establish the plaintiffs' rights and possession, there was nothing to indicate on record in her favour. Hence, this Court had refused to continue the order of status-quo in favour of the plaintiffs. Based on this order, the plaintiffs further contend that in view of the extension period of limitation during Covid-19 pandemic, the suit filed on 24th February 2022 would be within a period of limitation. Thus, the plaintiffs

though in initial paragraphs have pleaded regarding letters issued by defendant no. 5 on 20th February 2018 to defendant nos. 1 to 3, the plaintiffs have claimed further correspondence as a base to file Writ Petition No. 2859 of 2019.

6. Thereafter, it is the plaintiffs' contention that after dismissal of the writ petition, the suit filed in 2022 would be within the period of limitation. Thus, considering the substantive pleadings in the suit, the trial Court refused to reject the plaint at the threshold on the ground of limitation. So far as the bar under Section 36 of the said Act is concerned, the prayers against the competent authorities are based on initial prayers of declaration based on a private agreement and power of attorney. Thus, in view of Section 36 of the said Act, the reliefs claimed by the plaintiffs in favour of the private parties would not be barred in view of the said Act. The plaintiffs have a right to seek appropriate civil remedies from the Court. Hence, the suit filed based on the agreements between the private parties cannot be thrown out at the threshold by referring to Section 36 of the said Act. The substantive prayers in the suit are based on an agreement between the private parties. Hence,

even if the plaintiff is ultimately held not entitled to any relief against the competent authority under the said Act, the plaintiffs' suit for other reliefs based on the agreement between the private parties would not be barred as only the Civil Court would have exclusive jurisdiction to decide the claim between the private parties. In view of the aforesaid facts and pleadings, the issue of limitation, if any, would be a mixed question of law and fact and thus, the plaint cannot be rejected at the threshold on the point of limitation. The nature of the pleadings and the prayers would warrant a trial and the plaintiffs would be entitled to lead evidence in support of their claim. Hence, the suit cannot be rejected at the threshold.

7. I do not see any illegality or perversity in the reasons recorded by the Trial Court in rejecting the application under Order VII Rule 11(d) of the CPC. Civil Revision Application is devoid of any merit. Hence, Civil Revision Application is dismissed.

[GAURI GODSE, J.]