

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 963 OF 2024.

WITH

CROSS OBJECTION STAMP NO. 21818 OF 2024.

IN

FIRST APPEAL NO. 963 OF 2024.

Nenshi Akha Gala

...Appellant.

Versus

Maharashtra Housing And Area Development & Anr. ...Respondents.

Adv. Nirman Sharma and Adv. Ansh Karnawat, Adv. Minil Shah i/by Adv. Sahil Sayyed for the Appellant.

Mr. Vishal Pattabirman i/by Mr. Jayesh Mestry for the Respondent Nos. 6(a) to 6(c).

Coram : Sharmila U. Deshmukh, J.

Date : February 25, 2025.

P. C. :

1. The First Appeal as well as Cross Objection arose out of the Judgment of the Trial Court dated 26th March, 2024 answering the preliminary issue of limitation against the Appellant.

2. In view of the Judgment of the Apex Court in the case of ***Nusli Neville Wadia vs. Ivory Properties***¹ learned Counsel appearing for the Appellant as well as Cross Objector jointly submit that the matter be remanded to the Trial Court for fresh consideration in view of the observations of the Apex Court by framing all issues under order

1 (2020) 6 SCC 557

14 of CPC.

3. In light of the above, the Judgment dated 26th March, 2024 is hereby quashed and set aside. The S. C. Suit No. 321 of 2016 is restored to the file of the City Civil Court in view of the Judgment of the Apex Court in the case of ***Nusli Neville Wadia vs. Ivory Properties (supra)***. The Trial Court to proceed with the suit by framing all issues including the issue of limitation under order 14 of CPC and to decide all issues. The parties are at liberty to lead fresh evidence on all issues and will not be restricted to the evidence which has been led at the time of hearing of preliminary issue.

4. First Appeal and Cross Objection are disposed of as withdrawn in the above terms.

[Sharmila U. Deshmukh, J.]