



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO162 OF 2024**

Pramod Pandurang Musale and Ors ... Applicants
versus
Deepak Krushna Mhatre and Anr. ... Respondents

**WITH
CIVIL REVISION APPLICATION NO.236 OF 2024**

Pandurang Ganpat Musale ... Applicant
versus
Deepak Krushna Mhatre and Ors. ... Respondents

Mr. Vikram Walawalkar for Applicants in both matters.
Mr. Rajendra Haridas with Ms. Priyanka Lanke i/by Mr. Abhijit Patil, for Respondents.

CORAM: N.J.JAMADAR, J.

DATE : 11 NOVEMBER 2025

P.C.

1. Heard the learned Counsel for the parties.
2. The challenge in these applications is to orders dated 2 December 2023 passed by the learned Civil Judge, Kalyan, whereby the applications (Exh.34 and 20 respectively) preferred by the Applicants – Defendant Nos.1 and 2 for rejection of the plaint in SCS No.154 of 2024, on the ground of absence of cause of action and bar of limitation came to be rejected.
3. The bar of limitation was premised on the fact that the agreement for sale, for the specific performance of the contract contained therein the suits came to be instituted, was executed in the month of December 2016 and the

suits came to be instituted on 27 April 2022. By the impugned orders, learned Civil Judge has rejected the applications by observing that, limitation is a mixed question of law and facts and it will be decided at the trial.

4. The impugned orders singularly lack consideration on the aspect of the applicability of the First or Second Part of Article 54 of the Limitation Act, 1963. In fact, learned Civil Judge has not at all referred to the Article which would govern the instant suit and the time from which the period of limitation would commence to run.

5. In the aforesaid view of the matter, the impugned orders cannot be sustained. Since the aspect of limitation has not been adequately considered while deciding the application for rejection of the plaint, it is necessary to remit the applications back to the learned Civil Judge for afresh decisions, after providing an opportunity of hearing to the parties and recording reasons.

6. Hence, the following order :

ORDER

(i) The Applications stand partly allowed.

(ii) The impugned orders dated 2 December 2023 stand quashed and set aside.

(iii) The applications (Exh.34 and 20 respectively) for rejection of the plaint stand restored to the file of the learned Civil Judge for afresh determination on merits, after providing an effective opportunity of hearing to

the parties and recording reasons.

(iv) The parties shall appear before the learned Civil Judge on 1 December 2025.

(v) It is hereby made clear that all questions are kept open for consideration and this Court has not delved into the merits of the matter for the purpose of determination of the prayer for rejection of the plaint.

(N.J.JAMADAR, J.)