



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO.363 OF 2024**

M/s. Harsh Unique Grah Nirman Pvt. Ltd. ... Applicant
versus
Apurva Paresh Shah and Ors. ... Respondents

Mr. Saurabh Oka, for Applicant.
Mr. Umair A. Ansari, for Respondent No.1.

CORAM: N.J.JAMADAR, J.

DATE : 11 NOVEMBER 2025

P.C.

1. Heard the learned Counsel for the parties.
2. The challenge in this application is to an order dated 20 June 2024, passed by the learned Civil Judge, Thane, whereby the application preferred by the Defendants for rejection of the plaint on the ground that the suit is barred by law of limitation, came to be rejected.
3. Respondent No.1 has instituted a suit for specific performance of the Deed of Conveyance dated 13 May 2015 and an unregistered Deed of Conveyance dated 27 August 2015 and directions to the Defendants to admit the execution of the said Deed of Conveyances before the Registrar of Assurances and the consequential relief of injunction.
4. Defendant No.5 – Applicant preferred an application for rejection of the plaint contending that, as the Deeds of Conveyances were executed on 13 May 2015 and 22 August 2015 and what remained, according to the Plaintiffs,

was only the admission of the execution of the Deeds of Conveyances and registration, the institution of the suit in the year 2023, was ex-facie barred by limitation.

5. The Application is resisted by Respondent No.1 – Plaintiff.

6. By the impugned order, the learned Civil Judge has rejected the application opining, inter alia, that the limitation is a mixed question of law and facts.

7. Learned Counsel for the Applicant submitted that, from the very averments in the plaint, it becomes evident that for over 7 years, the Plaintiff had not taken any action to get the Deeds of Conveyances registered. As it is the claim of the Plaintiff that the Deeds of Conveyances have been executed and only registration thereof remained, the limitation for such a suit would commence after the expiry of the maximum period of 8 months provided under the Indian Registration Act, 1908. Learned Civil Judge has not at all adverted to the relevant questions that arise for consideration.

8. Learned Counsel for Respondent No.1 – Plaintiff made an endeavour to support the impugned order.

9. Undoubtedly, the question of limitation is a mixed question of law and facts. However, where from the very averments in the plaint, ex-facie it becomes evident that the suit is barred by limitation, the Civil Court is not denuded of the power to reject the plaint under Order VII Rule 11(d) of the

Code of Civil Procedure, 1908. The object of conferment of the power on the Civil Court is to nip in the bud a fruitless proceeding. A useful reference in this context can be made to a decision of the Supreme Court in the case of **Shri Mukund Bhavan Trust and Ors. V/s. Shrimant Chhatrapati Udayan Raje Pratapsinh Maharaj Bhonsle and Anr.**¹.

10. In the case at hand, from the perusal of the impugned order, it becomes evidently clear that the learned Civil Judge did not pose unto herself the question which was germane for the determination of the application for rejection of the plaint.

11. In the backdrop of the facts of the case, learned Civil Judge ought to have considered as to whether the First or Second Part of Article 54 of the Limitation Act, 1963 would govern the period of limitation and whether the prayer for direction to admit the execution and register the instruments by appearing before the Registrar of Assurances, was subsumed in the prayer for specific performance of the contract or otherwise. Instead, the learned Civil Judge has rejected the application by simply observing that, the issue of limitation is a mixed question of law and facts.

12. In the aforesaid view of the matter, the impugned order cannot be sustained. As the learned Civil Judge has not adequately considered the issues that arise for consideration, it is necessary to remit the application for

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rejection of the plaint to the learned Civil Judge for afresh decision.

13. Hence, the following order :

ORDER

- (i) The Application stands partly allowed.
- (ii) The impugned order dated 20 June 2024 stands quashed and set aside.
- (iii) The application for rejection of the plaint (Exh.24) stands restored to the file of the learned Civil Judge for afresh decision in accordance with law, after providing an effective opportunity of hearing to the parties.
- (iv) The parties shall appear before the learned Civil Judge on 1 December 2025.
- (v) Learned Civil Judge is requested to hear and decide the application (Exh.24) afresh, as expeditiously as possible and, preferably, within a period of three months from the date scheduled for the appearance of the parties.
- (vi) The parties shall cooperate with the learned Civil Judge and shall not seek any adjournment.

(N.J.JAMADAR, J.)