

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CIVIL APPELLATE JURISDICTION**  
**CIVIL REVISION APPLICATION NO. 523 OF 2025**

Medha Manoj Kaleshwar

..Applicant

**Versus**

Geetabai Laxman Dhumal & Ors

...Respondents

Mr. Aashay Rabade, for the Applicant.

**CORAM: N. J. JAMADAR, J.**

**DATE : 11<sup>th</sup> NOVEMBER 2025**

**ORDER:**

1. This Revision Application is directed against an order dated 3<sup>rd</sup> September 2025 passed by the learned Civil Judge, Senior Division, Pune, whereby an Application preferred by the Applicant-Defendant No.9 for rejection of the Plaint under the provisions of Order VII Rule 11(b) of the Code of Civil Procedure, 1908 ("the Code"), came to be rejected.

2. The Respondent Nos. 1 to 6 have instituted the suit seeking declarations that the Sale Deeds executed by the Defendants on 8<sup>th</sup> January 2007, 4<sup>th</sup> May 2011, 10<sup>th</sup> March 2012 and 25<sup>th</sup> April 2016 are void and illegal and do not bind the Plaintiffs interest in the suit properties, and perpetual injunction to restrain the Defendants from creating third party interest in the suit properties, change the nature of

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the suit properties and cause obstruction to the possession and cultivation of the Plaintiffs over the suit properties and not to dispossess the Plaintiffs from the suit properties without following due process of law, and also to pay compensation of Rs.5,25,000/- for having caused damage to the standing crops and trees.

3. The Defendant Nos.6, 1A/1, 7 and 8 have executed the Sale Deed dated 10<sup>th</sup> March 2012 in favour of the Applicant-Defendant No.9. Thus, the Defendant No.9 filed the Application for rejection of the Plaint primarily on the ground that the suit is *ex-facie* barred by law of limitation as from the perusal of the averments in the Plaint it would become evident that the cause of action has accrued to the Plaintiffs in the year 2018, and, yet, the suit came to be instituted in the year 2025.

4. By the impugned order, the learned Civil Judge rejected the Application observing, *inter alia*, that apart from the prayers of declarations it was the claim of the Plaintiffs that the Defendants were causing obstruction to the peaceful possession and cultivation of the Plaintiffs over the suit properties and thus injunctive reliefs were sought. Whether the suit is barred by limitation is a mixed question of facts and law and that can only be decided after recording evidence.

5. Mr. Aashay Rabade, the learned Counsel for the Applicant, submitted that the learned Civil Judge completely misconstrued the averments in the Plaint. Inviting attention of the Court to the averments

in paragraph 16 of the Plaint, wherein there is a reference to the fact that the Plaintiffs gathered the documents from the Revenue Department in the year 2018, and, thereupon, learnt about the mutation of the names of the Defendants in the Record of Rights of the suit properties, it was submitted that in the year 2018 itself, the Plaintiffs became aware of the instruments in respect of which declaration is sought by the Plaintiffs. Thus, in view of the provisions of Article 59 of the Limitation Act the suit would be *ex-facie* barred by law of limitation and, therefore, the Plaint was required to be rejected.

6. In an Application for rejection of the Plaint only the averments in the Plaint and the documents annexed thereto are required to be taken into account. The defence of the Defendants as manifested in the Written Statement, or for that matter the Application for rejection of the Plaint, is not at all germane to the determination of the prayer for rejection of the Plaint. A Plaint is, however, required to be read as a whole and that too in a meaningful and not formalistic manner. If an endeavour is made to camouflage the real nature of the suit or circumvent the bar to the maintainability of suit by resorting to the clever drafting, it is the duty of the Court to remove the gloss and nip the fruitless litigation in the bud.

7. Generally, the aspect of limitation is a mixed question of law and facts. However, a situation is not inconceivable that *ex-facie* the suit is

barred by law of limitation and no further investigation into the facts is warranted. In such a case, the Civil Court would be justified in rejecting the Plaint on the ground that it is *ex-facie* barred by law of limitation.

8. In the instant case a meaningful reading of the Plaint would indicate that the Plaintiffs claim that after Waghu Raghu Kandhare, the predecessor-in-title of the Defendant Nos. 1 to 6, sold his share out of the land bearing Survey No. 306 Hissa No. 2C/2/1 to Namdev Ganpat Jadhav by Sale Deed dated 24<sup>th</sup> May 1982, the said Waghu Kandhare did not hold any land out of Survey No. 306. Yet on the basis of the patently incorrect entries made in the Consolidation Proceedings, the successor-in-interest of Waghu Kandhare were shown to be holders of portion of property bearing Survey No. 306. On the basis of those incorrect and illegal entries in the Record of Rights, the Defendant Nos. 1 to 6 have executed various Sale Deeds in favour of the purchasers who have been impleaded as party-Defendants to the suit.

9. In the year 2018, when the Plaintiffs gathered the documents from the Revenue Authorities, the incorrect entries came to light. An Appeal was preferred before the Deputy Director of Land Records, and pursuant to the decision of the Deputy Director, Land Records, dated 27<sup>th</sup> December 2024, Mutation Entry No. 2349 has been cancelled. The Defendants, thereafter, started to cause obstruction to the possession and cultivation of the Plaintiffs over the suit property 1B which was sold

by late Waghu Kandhare in favour of the predecessor-in-title of the Plaintiffs under a Sale Deed, and on 17<sup>th</sup> January 2025 and 20<sup>th</sup> January 2025, the Defendants caused damage to the standing crops and trees, on the suit property 1B. Hence the suit for declaration, injunction and damages.

**10.** From the perusal of the averments in the Plaint, it becomes evident that the Plaintiffs claim proprietary and possessory title over the suit property 1B. The Plaintiffs claim that they have been in possession of the suit property and the Defendants have caused obstruction to Plaintiffs possession and cultivation of the suit property.

**11.** The submission on behalf of the Applicant that in the year 2018 itself, the Plaintiffs got knowledge of the instrument in favour of the Applicant is, at best, inferential. What the Plaintiffs have referred to in paragraph 16 of the Plaint is the fact that in the year 2018 incorrect entries in the Revenue Record were noticed and, thereafter, the Plaintiffs pursued the matter. Thus, it appears that the question as to when the Plaintiffs first got knowledge of the subject instruments would warrant investigation into the facts. The learned Civil Judge thus cannot be said to have committed any error in observing that, in the facts of the case, the aspect of limitation is a mixed question of law and facts.

**12.** Even otherwise, the Plaintiffs have, as noted above, sought injunctive reliefs and damages on the basis of the proprietary and

possessory title over the suit land. A specific case that on 17<sup>th</sup> January 2025 and 20<sup>th</sup> January 2025, the Defendants caused obstruction to the Plaintiffs possession and cultivation of the suit property and also caused damages to the standing crops and trees by employing a JCB machine, has been pleaded.

**13.** It is trite, a Plaint cannot be rejected in part qua a particular prayer, property or party. Even if one of the reliefs survives, the suit must go for trial. A useful reference, in this context, can be made to the judgments of the Supreme Court in the cases of **Sejal Glass Limited vs Navilan Merchants Private Limited<sup>1</sup>** and **Madhav Prasad Aggarwal and another vs. Axis Bank Limited and another.<sup>2</sup>**

**14.** In the aforesaid view of the matter, this Court does not find any jurisdictional error or material irregularity in the exercise of jurisdiction by the learned Civil Judge.

**15.** Resultantly, the Civil Revision Application stands dismissed.

**[N. J. JAMADAR, J.]**

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**1** (2018) 11 Supreme Court Cases 780.

**2** (2019) 7 Supreme Court Cases 158.