



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.**

CIVIL REVISION APPLICATION NO.7 OF 2025

Yugjeet Gurudayal Singh Kande, Aged
about 44 years, Occup. Nil, R/o Plot
No.5, Ring road, Pratap Nagar, Nagpur.

Applicant
(Ori. Defendant
No.4)

-Versus-

1. M/s. Selvel Publicity and Consultant Private Limited, A company incorporated under Companies Act, Having its registered office at 194, Ravindra Annexe, 4th Floor, D.V.Road, Mumbai, 400 020 through Mr.Jeevan Prabhakar Jathanna (Ori.Plaintiff) (Ori.Plaintiff)
2. Gurudayal Keharsingh Kande (Dead)
3. Snehal Gurudayal Singh Kande, Aged Major, Occupation Business.
4. Raunak Gurudayal Kande, Prop.Guru Sneha Associates, Aged Major, Occupation Business, Non-applicant Nos.2 to 4 r/o Vishnu Priya, Plot NO.6, Ringroad, Pratap Nagar, Nagpur. Non-applicants. (Ori. Defendant Nos.1 to 3)

Adv.Shantikumar Shivshankar Sharma, for the Applicant.
Smt.R.S. Dewani counsel for non-applicant No.1.
S.S. Ghube counsel for respondent Nos.3 and 4.

CORAM :MRS. VRUSHALI V. JOSHI, J.

**Judgment reserved on : 16.07.2025
Judgment pronounced on : 14.08.2025**

JUDGMENT:-

- 1) **Heard.**
- 2) **Rule.** Rule made returnable forthwith. This Civil Revision

Application is heard finally with the consent of the learned counsel appearing for the parties.

3) Being aggrieved by the order dated 23.10.2024, passed below Exh.198, rejecting the application under Order VII Rule 11 of the Code of Civil Procedure filed by the applicant, for rejection of plaint on the ground that the plaintiff does not disclose any cause of action in favour of plaintiff and also that as the defendant No.4 applicant herein is added as defendant in the year 2017, the same is barred as per the law of limitation.

4) The non-applicant No.1 filed the suit for specific performance of contract along with other reliefs bearing Special Civil Suit No.1278 of 2011 on the basis of deed of conveyance which was executed on 13.11.2009 between defendant Nos.1 and 2 and one Kekoo S. Nicholson, the original plaintiff No.2. The original plaintiff No.2 died on 12.04.2023 and his name was deleted. The suit has been filed for enforcement of alleged deed of conveyance dated 13.11.2009 entered between original plaintiff No.2. The plaint does not disclose any cause of action in favour of the sole plaintiff i.e. plaintiff No.1 the Company. Therefore, the suit after deleting the name of original plaintiff no.2 is not

maintainable. The another ground to reject the plaint is that the relief claimed as against the applicant is barred by limitation.

5) The brief facts of the present case are as under:-

That the suit for specific performance of contract is filed by the plaintiff on the basis of deed of conveyance dated 13.11.2009, which is executed between the original defendant Nos.1 and 2 with one Shri. Kekoo S. Nicholson. According to the applicant there is no reference of present non-applicant No.1 except that his office address is mentioned at page no.3 of conveyance deed as M/s Selvel Publicity and Consultant Private Limited. Even in the deed of conveyance, nowhere it is mentioned that the same has been executed for and on behalf of said M/s Selvel Publicity and Consultant Private Limited. Even the common seal of the company is not affixed on the said alleged deed. According to the applicant, the deed was executed by Mr. Kekoo S. Nicholson in his personal capacity. Even the said deed has no reference to the alleged Memorandum of Understanding dated 31.10.2009. Hence, once the name of original plaintiff No.2 came to be deleted it is apparently clear that the present non-applicant No.1 have no cause of action or locus to continue with

the suit. Hence, prayed to set aside the order passed by the trial Court rejecting the application filed by this applicant under Order VII Rule 11 of the Code of Civil Procedure, 1908.

6) The respondent appeared and has stated that the suit is filed by the Company and the plaintiff No.2 on behalf of the Company has signed the conveyance deed. On his death, the suit cannot be abated as the Company is the plaintiff and on behalf of Company the suit was filed. The trial Court has rightly considered the role of plaintiff No.2. Hence, prayed to reject the application.

7) Heard the learned counsel appearing for the respective parties.

8) On perusal of Civil Suit No.1278 of 2011, it appears that it is mentioned in para No.1 that the Company has filed the suit and one Nitin Kshirsagar is the Manager and plaintiff No.1 had constituted him as attorney for the plaintiff No.2. He was fully aware about the facts of the instant case and by Resolution dated 25.08.2011, the Company has authorised him to institute the suit, to sign and verify the plaint and therefore, it is signed and verified by the power of attorney holder Nitin Kshirsagar. Plaintiff no.2 was the promoter and director of the plaintiff No.1-

Company. The role of plaintiff No.2 is clearly mentioned in the civil suit. The suit is filed against the applicant-defendant No.4 . On perusal of the suit it appears that the proceedings under Negotiable Instruments Act were filed against the defendant No.3. There is Memorandum of Understanding between the defendant Nos.1 and 2 about selling of the property in lieu of the cheques given by the defendant No.3 to plaintiff Company. As per Memorandum of Understanding defendant Nos.1 and 2 agreed to sale the suit property to the plaintiffs. The agreement between the plaintiff No.2 and defendants is executed. It appears from the suit that the plaintiff No.2 acted as its Director therefore, on his demise, the suit cannot be said to have been abated. It is not correct that the applicant No.1 has no *locus standi* to continue the suit. The contract to purchase the suit property is not in his individual capacity. As the proceedings under the Negotiable Instruments Act in view of the contract between the plaintiff No.1 and defendant No.3 are resulted in favour of the plaintiff and therefore, Memorandum of Understanding was executed. The agreement of sale was also between plaintiff No.1-Company and defendant Nos.1 and 2. Considering the transaction between

Company and the defendant Nos.1 and 3 and as the suit discloses on what capacity, the plaintiff No.2 entered in contract with the defendants, the trial Court has rightly rejected the application filed by the applicants. Hence, interference at the hands of this Court is not required. Hence, the application is rejected.

9) Rule stands discharged.

10) Civil Revision Application stands disposed of.

(MRS.VRUSHALI V. JOSHI, J)