

16.02.2026
Court No.42
Item No.16
sudipta

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE**

C.O. 3167 of 2024

**Bhagwat Saha & Anr.
Vs.
Manisha Mistry**

Mr. Sounak Bhattacharya
Mr. Sounak Mandal
Ms. Bipasha Bhattacharyya

...for the petitioners

1. Present petition has been filed challenging the order dated 24th July, 2025 whereby the learned Trial Court has rejected the application under Order 7 Rule 11 CPC being filed by the petitioners / defendants.
2. Learned counsel for the defendants submits that the suit filed by the opposite party for recovery is barred by law of limitation on the face of it. Learned counsel submits that admittedly the loan was advance in 2012 and the suit was filed in the year 2023. Learned counsel has invited the attention of the Court to Article 19 of the Limitation Act which prescribes the limitation of three years for filing of the suit. Learned counsel has further invited the attention of this Court to the schedule of dates of transactions between the plaintiffs and the defendants.

3. The scope of revisional jurisdiction of the Court under Article 226 of the Constitution of India has very well being laid down. It has repeatedly been held that such jurisdiction has to be invoked sparingly and in the exceptional circumstances if there is illegality or perversity in the order of the learned Trial Court. Simply because an alternative view could have been taken, the revisional jurisdiction cannot be exercised. It is also a settled question that the limitation is a mixed question of fact of law and it has to be determined during the course of trial except in the exceptional circumstance cases on the basis of the factual matrix. In **Shakti Bhog Food Industries Limited Vs. Central bank of India & Anr.** in (2020) 17 **Supreme Court Cases 260** it has inter alia been held that the cause of action for filing a suit would consist of bundle of facts. Further the factum of the suit being barred of limitation, ordinarily, would be a mixed question of fact and law. And for that reason invoking order 7 Rule 11 CPC is ruled out.
4. Further during the course of submissions it has transpired that the suit has already proceeded and the presently is at the stage of evidence.

5. Learned counsel submits that even learned Trial Court had not framed any issue on the point of limitation. Learned counsel submits that this Court may issue a direction for framing of preliminary issue.
6. The Court considers that such contentions of the learned counsel are noted to be rejected only. There is no such plea or prayer in the petition. However, the petitioners may take all such plea before the learned Trial Court. The Court finds no merits in the present petition.
7. Hence, the present petition is dismissed.
8. All parties shall act on the basis of the server copy of this order duly downloaded from the official website of this Court.

(Dinesh Kumar Sharma, J.)