

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

IA NO. GA/2/2026

In

APDT/3/2026

PODDAR PROJECTS LIMITED

Vs

THE STATE OF WEST BENGAL AND ORS.

BEFORE:

The Hon'ble JUSTICE DEBANGSU BASAK

AND

The Hon'ble JUSTICE MD. SHABBAR RASHIDI

Date : April 16, 2026.

Appearance:

Mr. Rishad Medora, Adv.

Mr. Meghajit Mukherjee, Adv.

Ms. Sonia Das, Adv.

...for the petitioner.

Mr. Sudip Deb, Sr. Adv.

Mr. Pariotsh Sinha, Adv.

Mr. Joydeep Roy, Adv.

Ms. Swagata Ghosh, Adv.

Ms. Akshita Singh, Adv.

...for the respondent.

The Court: GA/2/2026 is an application for restoration.

For the ends of justice and on the basis of the causes shown in the application for restoration, we deem it appropriate to recall the order of dismissal dated April 2, 2026 and restore APDT/3/2026 to its original file and number.

GA/2/2026 is disposed of.

By consent of the parties, APDT/3/2026 is treated in the day's list and taken up for final hearing.

Appeal is at the behest of the plaintiff against a judgment and decree dated December 10, 2025.

By the impugned judgment and decree, learned Single Judge allowed GA/1/2025 filed by the defendant no. 3 in the suit, praying for rejection of the plaint.

Appellant as the plaintiff filed the suit praying for arrears of rent and for periodical fixation of the rate of rent.

Appellant as the plaintiff sought arrears of rent for the period from November, 2002 to April, 2021 that is for a period of 221 months at the rate of Rs.12/- per sq. ft. per month on the tenancy premises ad measuring 3728 sq. ft. Appellant as the plaintiff also sought for interest on the arrear rent.

Court is informed that, the defendant filed written statement in the suit.

By the impugned order, learned Single Judge allowed the application under Order VII Rule 11 of the Code of Civil Procedure, 1908 filed by the defendant no. 3. Learned Single Judge noted that a substantial part of the claim of the appellant as the plaintiff was barred by limitation, *ex facie*. Consequently, learned Single rejected the suit.

We find from the records that, the suit was filed in 2021. The claim in the suit relates to arrears of rent, from November, 2002. Limitation is a mixed question of fact and law. Ideally, an issue of limitation should be decided at the trial unless, taking the averments made in the plaint as true and correct for the purposes of Order VII Rule 11 of the Code of Civil Procedure, 1908, the same establishes that, the claim of the plaintiff is barred by limitation.

In the facts and circumstances of the present case, the claim as noted above is from November, 2002 onwards. The suit being filed in 2021, the claim for the three years prior to the filing of the suit cannot be said to be *ex facie* barred by limitation. In fact, the appellant as the plaintiff should be granted an

opportunity to establish at the trial that, other portions of the claim are not barred by limitation also.

Learned Senior Advocate appearing for the respondent submits that, by virtue of Section 44 of the West Bengal Premises Tenancy Act, 1997, the second relief sought for by the appellant as the plaintiff in the suit, is barred if not both the reliefs sought for are barred.

With the deepest of respect, a plaint cannot be truncated or divided in parts for the purpose of considerations under Order VII Rule 11 of the Code of Civil Procedure, 1908. Prayer (a) of the plaint which is a money claim, is maintainable in a Civil court, albeit, the just objections as to limitation. In fact, under Section 3 of the Limitation Act, 1963, it is the obligation of the Court to enter into the arena of the limitation of the claim of the plaintiff.

In such circumstances, we set aside the impugned judgment and decree dated December 10, 2025. CS/193/2021 is remanded for adjudication on merits. GA/1/2025 and GA/5/2025 filed in the suit stand dismissed.

We clarify that, the observations made herein are for the purpose of adjudicating an application under Order VII Rule 11 of the Code of Civil Procedure, 1908 and that, the observations made herein, will not prejudice any of the parties at the trial of the suit.

APDT/3/2026 along with all pending applications are disposed of.

(DEBANGSU BASAK, J.)

(MD. SHABBAR RASHIDI, J.)