



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CIVIL REVISION APPLICATION NO. 160 OF 2025

**SHIVAJI VITTHAL WAGHMODE
VERSUS
BHARAT VITTHAL WAGHMODE**

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Advocate for Applicant : Mr. Sushant Baburao Chaudhari

Advocate for Respondent : Mr. E. S. Murge

CORAM : SHAILESH P. BRAHME, J.

DATE : 07.01.2026

PER COURT :

Heard both sides.

2. The applicant is taking exception to the order dated 06.05.2025 passed below Exh. 11 in Regular Civil Suit No. 348/2024, declining to reject the plaint.

3. The applicant, who is original defendant, sought rejection of the plaint on the ground that claim is barred by limitation. The respondent has filed Regular Civil Suit No. 348/2024 for specific performance of contract, injunction and alternatively for refund of earnest amount. The suit is founded on unregistered agreement to sell executed on 23.05.2017. The applicant filed application Exh. 11 under Order VII Rule 11 of the Code of Civil Procedure (CPC), which is opposed by the respondent.

4. The learned counsel for the applicant submits that it was agreed between the parties that after mutating the name of the defendant the sale-deed was to be executed. His name was mutated vide entry No. 912 on or about 28.02.2018. The mutation entry and thereafter a public notice issued on 17.03.2021 is stated to be imputation of knowledge to the respondent. It

is submitted that suit was filed on 18.04.2024 beyond period of three years and the plaint is liable to be rejected. Reliance is placed on the judgment of Supreme Court in the matter of **Raghwendra Sharan Singh Vs. Ram Prasanna Singh (dead) by L.Rs.**; AIR 2019 Supreme Court 1430.

5. Per contra, the learned counsel for the respondent would submit that meaningful reading of the plaint would disclose in paragraph nos. 9 to 12, the circumstances as to why the suit could not be filed and the actual cause of action was on or about 26.01.2024. It is submitted that the Trial Court is justified in rejecting the application as the question of limitation needed to be gone into in full-fledged trial.

6. I have gone through plaint, the only relevant document, which can be looked into for enquiry under Order VII Rule 11 of CPC. The mutation entry No. 912 and the plea based on it cannot be taken into account at this stage of the proceedings. In paragraph No. 9 of the plaint, it has been specifically stated that after paper publication dated 17.03.2021, at the instance of the respondent, applicant-defendant requested for time to comply the agreement. Further paragraph nos. 10 and 12 of the plaint disclose that on 26.01.2024 the applicant flatly refused to execute the sale-deed, which is cause of action. The suit filed on 18.04.2024 is within limitation as per Article 54 of the Limitation Act.

7. I find that the trial court has rightly dealt with the submissions and justified in holding that suit is filed within limitation and question of limitation can be gone into during the trial.

8. In case of **Raghwendra Sharan Singh (supra)**, the gift-deed was executed by the plaintiff and his brother, which was registered on 06.03.1981. After about 22 years it was sought to be challenged by filing suit. During the interregnum period no objection is recorded to be raised by the plaintiff or his brother. In that context the plaint was rejected by the Apex Court under Order VII Rule 11 of the Code of Civil Procedure. The

facts are distinguishable. The ratio of the Supreme Court will not help the applicant.

9. The Civil Revision Application is rejected.

(SHAILESH P. BRAHME, J.)

mkd/-