

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 57 OF 2026

Shama Chandrashekhar Mohite

VERSUS

Sayaji Vitthal Mane And Ors.

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Mr. Kedar P. Lad, Advocate for Applicant.

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CORAM : SACHIN S. DESHMUKH, J.

DATE : 16th APRIL, 2026.

P. C. :

1. The Applicant raises challenge to the order dated 9th April, 2025 rendered by the 7th Joint Civil Judge, Senior Division, Kolhapur below Exhibit 20 in Regular Civil Suit No.278 of 2025 whereby the application filed by the Applicant under Order VII Rule 11 of the Civil Procedure Code, 1908 (CPC) came to be rejected.
2. The Respondent Nos.1 to 3 are the Original Plaintiffs in a suit seeking specific performance of an agreement to sale dated 02.09.1993 along with an application for injunction against the Defendants. (Hereafter, the parties shall be referred to as per their original status in the suit.)
3. In the interregnum, the Applicant/Original Defendant No.1 presented an application under Order VII Rule 11 of the CPC

seeking rejection of plaint contending the bar of limitation under Article 54 of the Limitation Act, 1963 (Hereinafter 'Act of 1963') and non-disclosure of cause of action. Consequently, the same was contested by the Plaintiffs and eventually same has been rejected by the order under challenge. As such, the applicant is before this Court.

4. Learned counsel for the applicant submits that the order under challenge is unsustainable in law. The trial Court failed to consider the bar under Article 54 of the Act of 1963, wherein the limitation period for suit seeking specific performance is of three years. The alleged agreement to sale is dated 02.09.1993, while the suit came to be instituted in the year 2025, as such, suit was time bared. The trial Court erroneously relied upon the pleadings regarding assurances and promises and the same does not constitute a fresh cause of action. Moreover, the trial Court further failed to consider the provisions of Section 53-A of the Transfer of Property Act as well as Section 17 (1-A) of the Registration Act, 1908. Since the alleged agreement is an undated agreement, the trial Court ought to have appreciated the contentions in the light of the aforesaid Acts. Thus, prayed to allow the application.

5. Having heard the submission of learned counsel for the applicant and upon perusal of the material on record particularly the plaint indicates that pursuant to the agreement dated 20.09.1993, the plaintiffs were inducted in possession of the suit property and parted the entire consideration amount. As such, the plaintiffs, as per the pleading are the possessors of the suit property therefore are also seeking relief of perpetual prohibitory injunction against the defendants.

6. As such, the plaint also discloses an independent and substantial relief of perpetual prohibitory injunction. Therefore, the trial Court has rightly appreciated all the aspects in their proper perspectives.

7. Resultantly, the application sans merit and the same stands dismissed.

8. Needless to state that the observations rendered herein are limited only to the extent of the decision of this application and the trial Court shall not be influenced by the same in any manner and shall decide the suit on its own merit.

[SACHIN S. DESHMUKH, J.]