



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO.259 OF 2026**

Vijay Manekji Shah ... Applicant
versus
Bhavana Chandrakant Chheda and Ors. ... Respondents

Mr. Rohit Agarwal with Mr. Aditya Manjrekar i/by MLS Vani and Associates, for Applicant.

**CORAM: N.J.JAMADAR, J.
DATE : 5 MAY 2026**

ORDER :

1. Heard the learned Counsel for the Applicant.
2. This revision is directed against an order dated 2 February 2026 passed by the learned Civil Judge, Wadgaon Maval, Pune, whereby the application preferred by the Applicant – Defendant No.2 for the rejection of the plaint under the provisions of Order VII Rule 11 of the Code of Civil Procedure, 1908, came to be rejected.
3. Respondent Nos.1 and 2 have instituted a suit for specific performance of the contract contained in the Memorandum of Understanding dated 28 April 2014 purportedly executed by the Power of Attorney of Defendant Nos.1 to 4 through their constituted attorney Khimji Mamnia. It was, inter alia, asserted that, under the said MOU Defendant Nos.1 to 4 agreed to sell land admeasuring 2000 sq. mtrs., forming part of the land bearing Survey Nos.299 and 185 corresponding to CTS No.158, 158/1 to 4 and CTS No.157, 157/B/1

to 157/B/6 situated at Lonavala, Dist. Pune, (the suit property) for a valuable consideration of Rs.75 Lakhs, and accepted a part consideration of Rs.3 Lakhs. Defendant Nos.1 to 4, however, resiled from their promise and entered into a transaction in respect of the larger property, including the suit property, with Defendant No.5. Hence, the suit.

4. The Applicant – Defendant No.2 preferred an application for rejection of the plaint on the ground that there was no cause of action and the suit for specific performance of the contract purportedly contained in the MOU dated 28 April 2014 was ex-facie barred by limitation.

5. The learned Civil Judge repelled the contention of the Applicant. It was, inter alia, observed that the suit prima facie appears to be within the period of limitation as the period commenced from the date of refusal of performance of the contract, which became evident from the execution of the subsequent sale deed.

6. Being aggrieved, Defendant No.2 has invoked the revisional jurisdiction.

7. Mr. Agarwal, learned Counsel for the Applicant, made an endeavour to persuade the Court to hold that the institution of the suit for specific performance of contract in the month of June 2024 when the MOU was purportedly executed in the year 2014, was ex-facie barred by law of limitation. Learned Civil Judge misconstrued the averments in the plaint and

the documents annexed with it to hold that the suit appeared to be within the period of limitation.

8. Ordinarily and in a vast majority of cases, limitation is a mixed questions of facts and law. However, where it could be demonstrated that a meaningful reading of the plaint leads to an inexorable inference that the relief claimed in the suit is ex-facie barred by law of limitation, the Court is not denuded of the power to reject the plaint at the threshold and nip in the bud an abortive and meaningless litigation. (**Shri Mukund Bhavan Trust and Ors. V/s. Shrimant Chhatrapati Udayan Raje Pratapsinh Maharaj Bhonsle and Anr.**¹.)

9. In the case at hand, a bare perusal of the MOU would indicate that Defendant Nos.1 to 4, albeit through their alleged power of attorney, had agreed to execute a sale / conveyance deed in respect of the suit property, after conclusion of all judicial proceedings in respect of the suit property, and, upon a declaration of Defendant Nos.1 to 4 as co-owners of the larger property. The time for performance of the contract was, thus, contingent upon the conclusion of the judicial proceedings and the perfection of the title of Defendant Nos.1 to 4 over the suit property. No date within the meaning of Article 54 of the Limitation Act, 1963, can be said to have been fixed under the terms of the MOU. Therefore, the first part of Article 54 has no application

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at all.

10. That leaves the aspect of the knowledge of refusal of performance. Mr. Agarwal attempted to salvage the position by canvassing a submission that the judicial proceedings in respect of the suit property were concluded in the year 2016 itself, and, thus, even if the period is reckoned from the year 2016, still the suit would be barred by law of limitation.

11. Mr. Agarwal was fair enough to inform the Court that Defendant Nos.1 to 4 had not apprised the Plaintiffs that the judicial proceedings were so concluded in the year 2016. However, an endeavour was made to urge that Defendant Nos.1 to 4 had questioned the very authority of the power of attorney to enter into the transaction in question and the MOU itself.

12. In this view of the matter, the question of knowledge of refusal of the performance to the Plaintiff enters in the arena of thickets of facts. Resultantly, the question of limitation becomes mixed question of facts and law.

13. If the averments in the plaint and the documents annexed with the plaint are appraised through the aforesaid prism, it cannot be said that the suit would be ex-facie barred by law of limitation. Consequently, the impugned order does not suffer from any jurisdictional error or material irregularity in the exercise of the jurisdiction by the Trial Court.

14. The Civil Revision Application, thus, stands dismissed.

(N.J.JAMADAR, J.)