

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 266 OF 2026

New Era Fabrics Limited ..Applicant
Versus
Shakuntala Bharat Jhaveri and Ors ...Respondents

Mr. M.M. Vashi, Senior Advocate, with Panthi Desai, i/b M/s M.P.
Vashi and Associates, for the Applicant.
Mr. Lokesh Zade, for the Respondents.

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

ORAL ORDER:

1. The challenge in this Petition is to an order dated 9th March 2026 passed by the learned Civil Judge, Mazgaon in Notice of Motion No. 2170 of 2023, whereby the Notice of Motion filed by the Petitioner-Defendant for the rejection of the Plaint, came to be dismissed.

2. The learned Judge was of the view that the question as to whether the suit is barred by the law of limitation is a mixed question of law and fact and, therefore, the Plaint cannot be rejected on the said count, at that stage.

3. The learned Counsel for the Applicant invited the attention of the Court to the averments in the Plaint and submitted that from the

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perusal of the averments in the Plaint itself, it becomes evident that the suit would be barred by limitation as it has been instituted three years after the last part payment towards the alleged due amount.

4. It was further submitted that the Plaintiff has not claimed the benefit of the provisions contained in Section 14 of the Limitation Act, on account of the pendency of the winding up petition before the learned Company Judge.

5. I have perused the averments in the Plaint and the material on record. In view of the various orders passed by this Court in Company Petitions and the observations in those orders, the question as to whether the Plaintiff would be entitled to the benefit of the provisions contained in Section 14 of the Limitation Act, 1963, arises for consideration. In fact, the aspect of applicability of Section 19 of the Limitation Act, in view of the purported part payment towards outstanding amount is again rooted in facts. Therefore, the view of the learned Judge that the bar of limitation appears to be a mixed question of facts and law and cannot be faulted at.

6. The learned Judge, City Civil Court while dismissing the Notice of Motion has, however, made a *prima facie* observation that the Suit appears to be within the stipulated period of limitation.

7. The Revision Application is thus disposed with a clarification that the issue of limitation, which has already been framed by the City Civil

Court, shall be decided on the basis of evidence and material on record without being influenced by the *prima facie* observation that the suit appears to be within the period of limitation.

[N. J. JAMADAR, J.]