



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CIVIL REVISION APPLICATION NO.87/2025

Ujwala wd/o Pramod Wankhede and another
...Versus...
Ashok S/o Dinesh Mishra and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Mr. R.S. Giripunje & Mr. Nikhil Sarwe, Advocates for applicants

CORAM : ROHIT W. JOSHI, J.
DATE : 28/01/2026

1. Legal representatives of original defendant No.1 have filed present revision application. Respondent No.1 is the original plaintiff. Defendant No.1 has sold the suit property to defendant Nos.3 to 6 vide sale-deed dated 14/01/2015, which is challenged in the suit. Respondent No.2 is the Sub-Registrar before whom sale-deed dated 14/01/2015, which is impugned in the suit, is registered. According to the plaintiff, he had entered into agreement of sale dated 24/01/2011 with the defendant No.1 in order to purchase the suit property. The said agreement is registered on 07/03/2011. Defendant No.1 had also executed a power of attorney dated 07/03/2011 in favour of plaintiff, enabling him amongst other things to get the sale-deed with respect to the suit property executed in his name in terms of the aforesaid agreement of sale dated 24/01/2011. This power of attorney is also a registered document. In this backdrop of facts, the plaintiff has filed a suit for specific

performance of contract against the defendant No.1 and defendant Nos.3 to 6.

2. The suit for specific performance is filed on 30/03/2015. After demise of defendant No.1, his legal representatives were brought on record as defendant No.1 (a) and 1 (b). These defendant Nos.1 (a) and 1 (b) are the present revision petitioners. They had filed application for rejection of plaint in the said suit vide Exh.140. The said application is rejected by the learned Trial Court. The said order, dated 16/06/2025 is subject matter of challenge in the present revision application.

3. Learned Advocate for the revision petitioners states that under the agreement dated 24/01/2011, a time-frame of five months was fixed for execution of sale-deed. He, therefore, contends that suit for specific performance filed on 30/03/2015 is barred by limitation. The contention of the learned Advocate is that when a date is stipulated for execution of sale-deed in terms of agreement, the limitation of three years for filing suit for specific performance of contract commences from the said date as per Article 54 of the Limitation Act, 1963.

4. Learned Advocate further contends that the plaint does not disclose any cause of action since right to execute sale-deed in favour of plaintiff was conferred upon the plaintiff himself. He contends that the plaintiff could have executed sale-deed in his favour, acting on the power of attorney dated

07/03/2011 and therefore, has no right to file suit for specific performance of contract. In this sense, he contends that there is no cause of action for filing suit.

5. An agreement of sale coupled with a power of attorney enabling the prospective purchaser to execute sale-deed in his favour, although is not a completed transaction of sale, is certainly akin to a sale transaction. In such a situation, there was no need for the plaintiff to get the sale-deed registered in his favour within the time-frame stipulated under the agreement. The plaint contains a positive statement that entire sale consideration is paid by plaintiff to defendant No.1. Cause of action for filing suit arose only on 14/01/2015 when the defendant No.1 sold the suit property to the defendant No.3 to 6. This act of sale of property is in breach of the agreement of sale executed by defendant No.1 in favour of plaintiff. Till that event there was no necessity for the plaintiff to file suit for specific performance. The argument with respect to limitation is, therefore, liable to be rejected.

6. As regards second contention with respect to cause of action, the breach of agreement by virtue of sale-deed dated 14/01/2015 offers cause of action for filing suit for specific performance. Cause of action, as is now well known is a bundle of facts, which, if uncontroverted offers plaintiff right to seek relief from a Court of competent jurisdiction. Breach of the right is an essential part of cause of action. Viewed in a broader sense, the execution of agreement of sale coupled with a power being granted to plaintiff for transfer of property

is a part of cause of action. However, the cause of action becomes complete on breach of the agreement, which, of course is the execution of sale-deed dated 14/01/2015 in favour of defendant Nos.3 to 6. The suit is filed on accrual of cause of action. The second contention with respect to lack of cause of action, therefore, deserves to be rejected.

7. In the considered opinion of this Court, learned Trial Court has not committed any error in rejecting the application for rejection of plaint. Civil Revision Application is, therefore, rejected. No order as to costs.

(ROHIT W. JOSHI, J.)