



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CIVIL REVISION APPLICATION NO. 117 OF 2025

Ramesh Bhagirath Rander, Aged 60 years, Occ: Business,
R/o Sarvodaya Cloth Market, Gandhibagh, Nagpur,
Tahsil & District – Nagpur (Maharashtra State).

APPLICANT

VERSUS

1. Anil Hariprasad Jejani, Aged 69 years, Occ: Business,
R/o 'Kheta Bhavan', New Cotton Market Road, Nagpur -
440018, Tahsil & District – Nagpur (Maharashtra State).
2. Anil Trimbakrao Kheta (HUF), Through its Karta Anil
Trimbakrao Kheta, Aged 64 years, Occ: Business,
R/o Shri Balaji, Block No.11, Prashant Nagar, Ajni Chowk,
Nagpur, Tahsil & District – Nagpur (Maharashtra State)
Consisting of his wife Pushpa and two sons Anshul
and Aniket (all major).
3. Anil Trimbakrao Kheta, Aged 64 years, Occ: Business,
R/o Shri Balaji, Block No.11, Prashant Nagar, Ajni Chowk,
Nagpur Tahsil & District Nagpur (Maharashtra State).
4. Pooja Anil Kale, Aged 55 years, Occ: Business, R/o Congress
Nagar, Nagpur, Tahsil & District Nagpur (Maharashtra
State) legal heir of late Aruna Govind Mishra.
5. Sushila Suresh Chawada, Aged 76 years, Occ: Business,
R/o Congress Nagar, Nagpur, Tahsil & District Nagpur
(Maharashtra State).
6. Prakash Maganbhai Kheta, Aged 74 years, Occ: Business,
R/o Tikekar Road, Dhantoli, Nagpur, Tahsil & District
Nagpur (Maharashtra State).
7. Anita Pramod Shinde, Aged 68 years, Occ: Legal
Practitioner, R/o Bajaj Nagar, Nagpur, Tahsil &
District Nagpur (Maharashtra State).
8. Sanjay Vasantjibhai Kheta, Aged 65 years, Occ: Business,
R/o 163, Adarsh Nagar, Narmada Road, Jabalpur,
(Madhya Pradesh).

NON-APPLICANTS

Shri M.G. Bhangde, Senior Advocate with Shri H.D. Dangre, counsel for the
applicant.

Shri A.C. Dharmadhikari, counsel for the non-applicant no.1.

Shri S.B. Mohta, counsel for the non-applicant nos.2 to 8.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE ON WHICH ARGUMENTS WERE HEARD : DECEMBER 05, 2025

DATE ON WHICH JUDGMENT IS PRONOUNCED : FEBRUARY 10, 2026

JUDGMENT

ADMIT. Heard finally with consent of the learned counsel for the parties.

2. This Civil Revision Application under Section 115 of the Code of Civil Procedure, 1908 (for short, 'the Code') takes exception to order dated 20.12.2024 passed by the trial Court rejecting the application for rejection of plaint under Order VII Rule 11(d) read with Section 151 of the Code, at Exhibit 10, in Special Civil Suit No.459 of 2023.

3. The applicant is the original defendant no.8 in the suit filed by the non-applicant no.1 and the non-applicant nos.2 to 8 herein are the original defendant nos.1 to 7 in the suit. The plaintiff filed the suit for declaration that the sale-deed dated 24.10.2020 to the extent of the suit property is not binding on the plaintiff it being executed by playing fraud on the plaintiff as well as for seeking relief of specific performance of the agreements dated 06.10.1995 and 21.11.1995 and for permanent injunction.

FACTS OF THE CASE

4. The case as pleaded by the original plaintiff in the suit is briefly stated as under:-

(i) The suit pertains to the properties described in paragraph 2 of the plaint which is land admeasuring about 15000 square feet shown in the plaint map identified as Survey No.407/2 and 408/2 (New City Survey No.102, Sheet No.261), Mouza Nagpur alongwith superstructure standing

on the plot. It is the plaintiff's case that the defendant no.1 is a 'HUF' shown as Anil Kheta HUF of which the defendant no.2 Anil Kheta is the Manager-Karta consisting himself, his wife Pushpa and two sons Anshul and Aniket.

(ii) The defendant no.8 is shown to be the purchaser of the property admeasuring about 42000 square feet out of entire property admeasuring 87000 square feet, as described in the sale-deed dated 24.10.2020 executed on behalf of Anil Kheta i.e. the defendant no.1 and others by the Court of Civil Judge (Senior Division), Nagpur in the execution proceedings bearing Darkhast No.63 of 2020 by order dated 09.10.2020.

(iii) It has to be noted that a suit bearing Special Civil Suit No.291 of 2017 was filed by the applicant herein (Ramesh Rander) against the non-applicant nos.2 to 8 herein seeking specific performance of agreement dated 01.08.2011 about land admeasuring 42000 square feet. The said suit was compromised in Lok-Adalat on 08.02.2020. For execution of this compromise decree, the applicant herein filed Special Darkhast no.63 of 2020. In this execution case, the non-applicant no.1 herein filed an objection under Order XXI Rules 97 and 98 read with Sections 47 and 151 of the Code. This objection (Exhibit 31) was initially rejected by order dated 11.04.2023, which was challenged vide First Appeal No.304 of 2023, before this Court. This First Appeal was allowed by order dated 23.10.2024 and the objection filed by the non-applicant no.1 herein is revived. As such, the said objection under Order XXI Rules 97 and 98 of the Code is pending as on today.

(iv) It is the plaintiff's case that the defendant no.8 claims to be the owner of the suit property on the basis of a decree passed on account of collusion and connivance between the defendant nos.1, 2 and 8 and by playing fraud on the plaintiff to deprive him of the valuable rights in the suit property.

(v) On the basis of elaborate pleadings as stated in the plaint, the plaintiff has prayed for a decree of declaration that the sale-deed dated 24.10.2020 executed in favour of the defendant no.8 is void to the extent of the suit property and hence not binding on the plaintiff and further a declaration is sought that the agreements dated 06.10.1995 and 21.11.1995 still subsist and their cancellation by the defendant nos.1 and 2 is illegal and void. On the basis of such declaration, a decree for specific performance of contract of agreements dated 06.10.1995 and 21.11.1995 is prayed for.

5. The defendant no.8 appeared in the suit and filed an application for rejection of plaint under Order VII Rule 11(d) read with Section 151 of the Code at Exhibit 10. By this application, the defendant no.8 prayed for rejection of the plaint being barred by limitation and being devoid of any cause of action. The application was resisted by the plaintiff by his reply dated 27.09.2023 and by order dated 20.12.2024, the trial Court rejected the application. By way of instant civil revision application, the defendant no.8 has raised a challenge to this order.

CONTENTIONS CANVASSED

6. Shri M.G. Bhangde, learned Senior Advocate for the applicant primarily submitted that the plaint deserves to be rejected on two counts, firstly being barred by limitation and secondly for failure to disclose any cause of action.

7. He also submitted that the plaintiffs have already filed an objection under Order XXI Rules 97 and 98 read with Section 47 of the Code in the execution proceedings bearing Special Darkhast No.63 of 2020 and hence the suit seeking relief of cancellation of sale-deed and specific performance of contract is an attempt to contest two parallel proceedings which is an abuse of process of law.

8. As regards the contention about the suit being barred by limitation, the learned Senior Advocate submitted that the primary relief prayed in the suit is Prayer Clause (b) seeking relief of specific performance of contract and the relief prayed vide Prayer Clause (a) about declaration for cancellation of sale-deed dated 24.10.2020 is a secondary relief. He therefore submitted that the primary relief of specific performance of contract with respect to the agreements dated 06.10.1995 and 21.11.1995 being hopelessly barred by limitation, the plaint was required to be rejected under Order VII Rule 11(d) of the Code.

He submitted that a suit for specific performance of contract is governed by Article 54 of the Limitation Act, 1963 which provides limitation period of three years and the time from which period begins to run is the date fixed for the performance and in case, no such date is fixed,

the period begins to run when the plaintiff has notice that performance is refused. He submitted that the first limb of the said clause is only relevant in the instant case as a date was fixed for the performance of contract. He submitted that the second limb of said clause dealing with cases where no such date is fixed is not at all attracted in the instant case. He submitted that the suit is filed in the instant case after about 28 years from the date of agreements of sale and therefore, it is barred by limitation. By relying on Section 16 of the Specific Relief Act, 1963, particularly 'Explanation (ii)' to Section 16, he submitted that this Section creates a statutory bar for the suits of specific performance of contract and the bar being statutory in nature is governed by Clause (d) to Order VII Rule 11 of the Code.

By inviting attention to various clauses of the agreement of sale dated 06.10.1995 and supplementary agreement dated 21.11.1995, particularly Clause 3 of the agreement, he submitted that a specific time period was fixed for performance of the agreement i.e. within six months from the date of this agreement or within one month from the date of completing formalities which are required to be completed for execution of the sale-deed. He submitted that Clause 3 when read with Clause 11 of the said agreement clearly provided that the outer limit for performance of the agreement was six months. He submitted that the supplementary agreement was executed only for the purpose of inserting the stipulations about payment of Rs.3,50,000/- which was duly acknowledged by the Party no.1 to the said agreement. He thus submitted that even after execution of the supplementary agreement, the stipulations about time

period for performance of contract were maintained and remained binding on the parties. As such, the suit claiming specific performance of contract filed after a period of twenty eight years, based on the agreement dated 06.10.1995 and supplementary agreement dated 21.11.1995, is clearly barred by limitation and the plaint deserved to be rejected under Order VII Rule 11(d) of the Code.

9. Another limb of argument on behalf of the applicant as canvassed by the learned Senior Advocate is about absence of cause of action. He submitted that the pleadings in the plaint do not disclose cause of action for seeking the relief of specific performance of contract and the cause of action as pleaded in the plaint is illusory in nature. He submitted that there is no real cause of action to claim the relief of specific performance of contract. By inviting attention to various paragraphs in the plaint, he submitted that the pleadings in the suit are not in consonance with the terms of the agreements and the pleadings are at variance with the stipulations and the terms of the agreements. He submitted that although the plaintiff has claimed the relief of specific performance of contract, he has failed to specifically aver in the plaint about any cause of action and as such in view of Explanation (ii) to Section 16 of the Specific Relief Act, 1963, the plaint, which does not reveal any cause of action, deserved to be rejected. By inviting attention to paragraph 23 of the plaint, in which the plaintiff has elaborated the cause of action, he submitted that the alleged cause of action is not relatable to any agreement and the cause of action as pleaded is illusory in nature.

10. He submitted that despite the suit being clearly barred by limitation and lacking any cause of action, the trial Court failed to consider the application for rejection of plaint in proper perspective and committed error in rejecting the said application.

In support of his submission, the learned Senior Advocate for applicant placed reliance on the following case laws:-

- i. *K. Nagesh Shet Versus Dr. Antonio Teotonio Cardoso & Another* [2023(3) Mh.L.J. 526].
- ii. *Dr. Miss Kunda d/o Khemraj Choudhary Versus Mathurabai Mahadu Jadhav (deceased) & Others* [2016(3) Mh.L.J. 602].
- iii. *Urvashi Aggarwal (since deceased) through legal representatives & Another Versus Kushagr Ansal (successor-in-interest of erstwhile defendant 1 Suraj Kumar) & Others* [(2020) 17 SCC 774].
- iv. *Fatehji & Company & Another Versus L.M. Nagpal & Others* [(2015) 8 SCC 390].
- v. *K. Raheja Constructions Ltd. & Another Versus Alliance Ministries & Others* [1995 Supp(3) SCC 17].
- vi. *Usha Devi & Others Versus Ram Kumar Singh & Others* [2024 SCC OnLine SC 1915].
- vii. *Manohar @ Prabhakar Purushottamrao Wakil (dead) through LRs. Vanita Manohar Wakil & Others Versus Goma Nagoji Kamble (dead) through LRs. Kamlabai Gomaji Kamble & Others* [2015(4) Mh.L.J. 643].
- viii. *Gaurav Balmukund & Others Versus Tukaram Pandurang Dhagekar (since dead) through his LRs. Vimlabai Tukaram Dhagekar & Others* [2018(4) Mh.L.J. 709].
- ix. *Dahiben Versus Arvinbhai Kalyanji Bhanusali (Gajra) Dead Through Legal representatives & Others* [(2020) 7 SCC 366].
- x. *Rajendra Bajoria & Others Versus Hemant Kumar Jalan & Others* [(2022) 12 SCC 641].

- xi. *Raghwendra Sharan Singh Versus Ram Prasanna Singh (dead) by legal representatives* [(2020) 16 SCC 601].
- xii. *Sree Surya Developers And Promoters Versus N. Sailesh Prasad & Others* [(2022) 5 SCC 736].
- xiii. *Ramisetty Venkatanna & Another Versus Nasyam Jamal Saheb & Others* [2023 SCC OnLine SC 521].
- xiv. *Suman Parmananddas Mundhada & Others Saroj Screens Primvate Ltd. & Others* [1992(2) Mh.L.J. 1460].
- xv. *D.N. Joshi (dead) through legal representatives & Others Versus D.C. Harris & Another* [(2017) 12 SCC 624].

11. Per contra, Shri A.C. Dharmadhikari, learned counsel for the non-applicant no.1-original plaintiff vehemently opposed the revision application and supported the impugned order. He submitted that the application under Order VII Rule 11(d) of the Code deserved to be rejected as the defendants failed to demonstrate from the averments in the plaint that the suit is barred by any law. He submitted that the averments in the plaint categorically demonstrated that the suit filed by the plaintiff seeking declaration of the sale-deed dated 24.10.2020 to be void and seeking specific performance of contract is absolutely within limitation. He submitted that the plaintiff has specifically averred in the plaint about the cause of action based on the unilateral cancellation of the agreements which clearly show that the suit is well within limitation. He also submitted that the issue of limitation is a mixed question of facts and law and at this stage it cannot be conclusively inferred that the plaint deserved to be rejected only on account of the suit being barred by limitation. He also submitted that the plaintiff has narrated the cause of action in the

entire plaint demonstrating the sequence of events and in paragraph 23 of the plaint, has specified the details about the cause of action. He also submitted that the plaintiff has specifically alleged fraud by the defendants and in the wake of categorical averments about collusion and fraud, the contentions about limitation loses its significance.

12. In support of his submissions, the learned counsel for the non-applicant no.1 invited the Court's attention to the various pleadings from the plaint and submitted that the plaintiff has specifically put up a case that in accordance with the agreements dated 06.10.1995 and 21.11.1995, the plaintiff has made payments from time to time which are accepted by the defendants and in consideration of the payments the defendants have delivered vacant possession of the property to the plaintiff. The plaintiff has specifically averred that the possession of the property is given to him in part performance of the contract of sale and it was agreed between the parties that the sale-deed will be executed in favour of the plaintiff by the defendant nos.1 and 2 only after Mr.Prataprao delivers vacant possession of the portion of the property occupied by him. The plaintiff has also averred that the said two agreements are still subsisting and are in force and the unilateral cancellation of those agreements by the defendant no.1 is already subjected to challenge by way of the suit. The plaintiff has also specifically averred in the plaint that the plaintiff has been and even today is ready and willing to perform his part of obligation under the agreements dated 06.10.1995 and 21.11.1995. Further, the plaintiff has also specifically averred in the plaint that the decree passed in favour of the defendant

no.8 was obtained by fraud and by misleading the Members of Lok-Adalat and acting in collusion and connivance with the defendant nos.1 and 2 with an intention to deprive the plaintiff of his valuable right based on the agreements. The learned counsel for the non-applicant no.1 invited attention to the pleadings in paragraphs 13 to 15 of the plaint which contain specific averments about fraud against the plaintiff and submitted that the plaint discloses a cause of action.

13. As regards the objection under Order XXI Rules 97 and 98 of the Code, he submitted that the plaintiff is entitled to raise objection to the execution proceedings which is already raised and at the same time the plaintiff is entitled to claim specific reliefs as claimed in the suit. He submitted that the reliefs claimed in the suit could not be claimed in the objection under Order XXI Rules 97 and 98 read with Sections 47 and 151 of the Code and as such the contentions of the revision applicant in that regard are devoid of substance. He thus submitted that the case as put up by the plaintiff needs adjudication on the basis of evidence and the plaint cannot at all be considered to be worthy of rejection, much less, under Order VII Rule 11(d) of the Code.

In support of his submissions, he placed reliance on the following case laws:-

- i. *Gunwantbhai Mulchand Shah & Others Versus Anton Elis Farel & Others* [(2006) 3 SCC 634].
- ii. *PKumarakurubaran Versus P. Narayanan & Others* [2025(4) ALT 76].
- iii. *Welspun Specialty Solutions Limited & Others Versus Oil and Natural Gas Corporation Ltd. & Others* [(2022) 2 SCC 382].

- iv. ***Geetha Versus Nanjundaswamy & Others*** [AIR 2023 SC 5516].
- v. ***Central Bank of India & Others Versus Prabha Jain & Others*** [2025(4) SCC 38].
- vi. ***Eldeco Housing and Industries Limited Versus Ashok Vidyarthi & Others*** [2023 INSC 1043].
- vii. ***PRamasubbamma Versus V. Vijayalakshmi & Ors*** [(2022) 7 SCC 384].
- viii. ***K.S. Manjunath & Others Versus Moorasavirappa & Others*** [2025 INSC 1298].

CONSIDERATION OF THE CASE LAWS

14. The judgments relied upon by Shri M.G. Bhangde, learned Senior Advocate for the revision applicant in ***Urvashi Aggarwal (since deceased) through legal representatives & Another, Fatehji & Company & Another*** and ***K.Raheja Constructions Ltd. & Another*** (supra) are in support of the contentions that the suit filed by the plaintiff in the instant matter, seeking specific performance of contract after almost 28 years is not maintainable and the plaint is liable to be rejected under Order VII Rule 11 of the Code only on this count. On the basis of position of law as laid down in ***Usha Devi & Others*** and ***Manohar @ Prabhakar Purushottamrao Wakil (dead) through LRs. Vanita Manohar Wakil & Others*** (Supra), it is contended that the suit filed by the plaintiff falls within the first limb of Article 54 of the Limitation Act and the plaint thus deserve to be rejected.

15. He also placed reliance on judgment in ***Gaurav Balmukund & Others*** (supra) and submitted that since a specific date was decided in the agreement to sell, the period of limitation got triggered from that date and as such the suit having not been filed considering the said date, the same

has to be rejected being barred by limitation. This judgment is discussed in later part of this judgment.

16. Reliance is also placed by the applicant on the judgment of Hon'ble Supreme Court in ***Dahiben*** (supra), which elaborately deals with the position of law with respect to the applicability of provisions of Order VII Rule 11 of the Code. Pertinent to note, even the counsel for the non-applicant has also relied upon this judgment and the position of law including the guiding principles for deciding an application under Order VII Rule 11 of the Code is not disputed.

17. Reliance is also placed on the judgment in ***Rajendra Bajoria & Others, Raghwendra Sharan Singh, Sree Surya Developers And Promoters, Ramisetty Venkatanna & Another, Suman Parmananddas Mundhada & Others*** and ***D.N. Joshi (dead) through legal representatives & Others*** (supra) to highlight the contentions that on a meaningful reading of the plaint, in absence of any cause of action, the plaint deserves to be rejected. It is submitted that in case by clever drafting an illusion of a cause of action is created the powers under Order VII Rule 11 of the Code are required to be exercised

18. For refuting the arguments of applicant and to buttress his own submissions, Shri A.C. Dharmadhikari, learned counsel for the non-applicant no.1 also placed reliance on several judgments. By relying on the judgment in ***Gunwantbhai Mulchand Shah & Others*** (supra), he submitted that since the agreements in question are admitted, although issues about

interpretation of the clauses are raised, there is no question of rejection of plaint without leading any evidence. By relying upon judgment in ***P. Kumarakurubaran*** (supra), he submitted that contentions of fraud as averred in the plaint require trial and nothing can be conclusively inferred at this stage without an opportunity to the plaintiff to lead evidence.

19. By relying on the judgment in ***Welspun Specialty Solutions Limited & Others, Geetha, Central Bank of India & Others, Eldeco Housing and Industries Limited*** and ***P.Ramasubbamma*** (supra), he submitted that the plaint cannot be rejected by considering only a few clauses from the agreement or on the contentions that some relief is barred by limitation and even a plaint cannot be rejected in part. By relying on judgment in ***K.S. Manjunath & Others*** (supra), he submitted that a unilateral cancellation of an agreement is absolutely impermissible and no conclusions can be arrived at this stage without an opportunity to the plaintiff to lead evidence to demonstrate illegality of the unilateral cancellation of the agreement.

20. He submitted that the case as put up by the plaintiff need to be decided on the basis of evidence and in view of the disputed questions of fact even the question of limitation which is a mixed question of facts and law, will have to be adjudicated on the basis of evidence.

21. Rival contentions thus fall for my consideration.

CONSIDERATION OF RIVAL CONTENTIONS

22. The crux of the controversy involved in the instant civil revision application is whether the plaint deserved to be rejected under Order VII Rule 11(d) of the Code. The primary contentions canvassed on behalf of the revision applicant are that the suit filed by the plaintiff is barred by limitation and secondly that the plaint does not disclose any cause of action.

23. It has to be noted that the suit is filed for seeking a declaration about cancellation of the sale-deed dated 24.10.2020 executed in favour of the defendant no.8 and a separate relief is sought about declaration and specific performance with respect to the agreements dated 06.10.1995 and 21.11.1995. The plaintiff has specifically averred in the plaint that he got knowledge about the unilateral cancellation of the aforesaid agreements on 01.07.2021 and the suit as filed from the date of knowledge is well within limitation. The plaintiff has also specifically made allegations of fraud on the part of the defendants. As regards the cause of action, the plaintiff has narrated various events in the entire plaint and has pleaded specifically about cause of action in paragraph 23 of the plaint.

24. While testing legality of the impugned order, the parameters of the provision under Order VII Rule 11 of the Code need to be kept in mind. It is beneficial to refer to the position of law as laid down in *Dahiben* (supra) in which after analysing several authoritative pronouncements, the position of law is clarified and reiterated and the relevant paragraphs from this judgment are reproduced below:-

“23.2 The remedy under Order VII Rule 11 is an independent and special remedy, wherein the Court is empowered to summarily dismiss a suit at the threshold, without proceeding to record evidence, and conducting a trial, on the basis of the evidence adduced, if it is satisfied that the action should be terminated on any of the grounds contained in this provision.

23.4 In Azhar Hussain v. Rajiv Gandhi, this Court held that the whole purpose of conferment of powers under this provision is to ensure that a litigation which is meaningless, and bound to prove abortive, should not be permitted to waste judicial time of the court, in the following words :

“12. ...The whole purpose of conferment of such power is to ensure that a litigation which is meaningless, and bound to prove abortive should not be permitted to occupy the time of the Court, and exercise the mind of the respondent. The sword of Damocles need not be kept hanging over his head unnecessarily without point or purpose. Even if an ordinary civil litigation, the Court readily exercises the power to reject a plaint, if it does not disclose any cause of action.”

23.6 Under Order VII Rule 11, a duty is cast on the Court to determine whether the plaint discloses a cause of action by scrutinizing the averments in the plaint, read in conjunction with the documents relied upon, or whether the suit is barred by any law.

23.9 In exercise of power under this provision, the Court would determine if the assertions made in the plaint are contrary to statutory law, or judicial dicta, for deciding whether a case for rejecting the plaint at the threshold is made out.

24.1 In Swamy Atmanand v. Sri Ramakrishna Tapovanam, this Court held:-

“24. A cause of action, thus, means every fact, which, if traversed, it would be necessary for the plaintiff to prove an order to support his right to a judgment of the court. In other words, it is a bundle of facts, which taken with the law applicable to them gives the plaintiff a right to relief against the defendant. It must include some act done by the defendant since in the absence of such an act, no cause of action can possibly accrue. It is not limited to the actual infringement of the right sued on but includes all the material facts on which it is founded.”

25. The position of law is no more *res integra* that an application for rejection of plaint has to be considered on the basis of averments in the plaint. In the wake of specific pleadings in the plaint about the suit being within limitation since it is filed from the date of knowledge of unilateral cancellation of the agreements, the contentions canvassed on behalf of the applicant about the suit being barred by limitation based on the clauses of the agreement dated 06.10.1995 and supplementary agreement dated 21.11.1995, cannot be accepted. It is also important to note that the plaintiff has elaborately stated the acts of fraud on the part of the defendants and there are allegations of fraud against the defendants which needs adjudication on the basis of evidence and without evidence nothing can be concluded at this stage on the basis of bare contentions.

26. The position of law is settled that an issue of limitation is a mixed question of facts and law. On considering the averments as pleaded in the plaint, the question of limitation cannot at all be considered to be a purely question of law in the instant case. In view of the case put up by the plaintiff in the plaint, the issue of limitation in the instant case will have to be decided on the basis of evidence.

27. As regards the reliance placed by the applicant on the judgment in *Gaurav Balmukund & Others* (supra), while considering the facts in that case, it has to be noted that it was a suit for declaration and specific performance of contract which was filed in the year 2011, seeking a declaration in respect of a sale-deed of the year 1983 and

specific performance of an agreement in which the date for performance was fixed as 13.10.1997 and the suit was found to have been filed beyond limitation with respect to both the reliefs. In that background, the rejection of the plaint was upheld. However, in the instant case, the plaintiff has sought for a declaration with respect to a sale-deed dated 24.10.2020 by the suit which is filed on 15.04.2023. Apart from this, there are elaborate pleadings about fraud and collusion on the part of the defendants. Hence, the position of law laid down in the judgment in ***Gaurav Balmukund & Others*** (supra) is not of any assistance to the revision applicant.

28. Although revision applicant has vehemently submitted that the relief of declaration as prayed in Prayer Clause (a) of the plaint is secondary and the relief of specific performance as prayed in Prayer Clause (b) is primary, however, on entire reading of the plaint, it cannot be concluded that the suit is filed only for relief of specific performance of contract. There are elaborate averments about the transaction in between the parties in the entire plaint and challenge is raised to the sale-deed dated 24.10.2020 which will have to be adjudicated on the basis of evidence.

29. As regards the contentions canvassed on behalf of the applicant about the absence of cause of action, it has to be noted that the plaintiff has put up a case for challenge to the sale-deed dated 24.10.2020 based upon elaborate pleadings. The reliefs claimed by the plaintiff for

cancellation of the sale-deed and specific performance of the agreement dated 06.10.1995 and supplementary agreement dated 21.11.1995, are also based on the specific averments in the plaint. The entitlement of the plaintiff for the reliefs claimed will be decided after adjudication of the controversy based upon evidence to be led by the parties. At this stage on the basis of bare reading of the plaint, any conclusion cannot be reached or inference cannot be drawn that the plaint does not at all disclose any cause of action.

30. At this juncture, it is apposite to refer to the legal position about recourse to Order VII Rule 11 of the Code, where several reliefs are sought in the suit. It is beneficial to refer to the recent authoritative pronouncement of the Hon'ble Supreme Court of India, in ***Karam Sikkh Versus Amarjit Singh & Others*** [2025 SCC OnLine SC 2240], in which while dealing with an identical controversy about rejection of plaint under Order VII Rule 11(d) of the Code, the basic principle is reiterated in paragraph 15, which is reproduced below:-

“15. Before we assess the correctness of the impugned orders, we must remind ourselves of the basic principles governing rejection of a plaint under Order 7 Rule 11 of CPC. Here, the defendants seek rejection of plaint under clause (d) of Rule 11 (i.e., suit barred by law). Clause (d) makes it clear that while considering rejection of the plaint thereunder only the averments made in the plaint and nothing else is to be reconsidered to find out whether the suit is barred by law. At this stage, the defence is not to be considered. Thus, whether the suit is barred by any law or not is to be determined on the basis of averments made in the plaint.”

While dealing with identical issues arising from a plaint where several reliefs were sought, the position of law is clarified in paragraph 19, which reads thus:-

“19. That apart, where several reliefs are sought in suit, if any one of the reliefs is within the period of limitation, the plaint cannot be rejected as barred by law by taking recourse to Order 7 Rule 11(d) of CPC.”

In my view, these pertinent observations of Hon’ble Supreme Court are applicable in the instant case, where plaintiff has claimed several reliefs in the suit as stated above.

31. Having regard to the case put up by the plaintiff in the plaint based on the agreement dated 06.10.1995 and the supplementary agreement dated 21.11.1995 and particularly considering the clauses of these two agreements, the contentions canvassed on behalf of the applicant cannot be accepted without allowing the parties to lead evidence.

32. As regards the contentions about conduct of parallel proceedings of the objection under Order XXI Rules 97 and 98 of the Code and the civil suit, I am in respectful agreement with the submissions of the counsel for the non-applicant no.1 that the reliefs claimed in the two proceedings are different and the plaintiff cannot be deprived from contesting the suit by leading evidence, even though he has raised an objection to the execution of the decree.

33. Although learned counsel for the respective parties have made elaborate submissions about interpretation of various clauses of the agreement dated 06.10.1995 and the supplementary agreement dated 21.11.1995, considering the final order which this Court proposes to pass in the instant matter, this Court refrains itself from recording any observations about meaning/interpretation of the specific terms in the clauses of the agreements since it is subject matter of adjudication based on evidence. Since the controversy involved in the suit is required to be decided by considering the purport and effect of various clauses of the agreement, it is desirable that the parties are permitted to lead evidence to prove their respective contentions and the issues are allowed to be decided by the trial Court on the basis of evidence.

34. Having regard to the abovementioned factual and legal aspects, I am of the firm view that the plaint as filed by the plaintiff containing elaborate pleadings about fraud and about challenge to unilateral cancellation of agreements does not warrant outright rejection under Order VII Rule 11 of the Code.

35. On perusal of the order passed by the trial Court, I find the view taken by the trial Court is a plausible view based on the documents on record. The trial Court has recorded its inferences based on the averments in the plaint and passed the order within the parameters of Order VII Rule 11 of the Code by relying upon relevant position of law. As such no perversity is seen with the impugned order.

36. After giving anxious consideration to the arguments canvassed on behalf of the revision applicant as well as non-applicants, no interference is warranted with the impugned order. The civil revision application is accordingly rejected. No order as to costs.

(PRAFULLA S. KHUBALKAR, J.)

APTE

At this stage, the learned counsel for the applicant prays for continuation of the interim arrangement for a period of six weeks to enable the applicant to approach to the Hon'ble Supreme Court. By the interim arrangement, the request for adjournment before the trial Court was directed to be considered favourably.

Although the request is opposed, considering the fact that the interim arrangement was continued during pendency of the Civil Revision Application, the said interim arrangement shall continue for a period of six weeks from today. After expiry of period six weeks, this arrangement shall cease to operate.

(PRAFULLA S. KHUBALKAR, J.)

APTE