



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 36 OF 2020**

Swapnil

Anant Govind Urankar. ... Applicant
Vs.
Shankar Namdev Urankar and Ors. ... Respondents

Mr. Sumit Kate i/b. Mr Uday Warunjekar for the applicant.

CORAM : GAURI GODSE, J.

DATE : 4th February 2026

ORDER :

1. This civil revision application is filed by defendant no.7 to challenge the order passed by the trial court rejecting his application under Order VII Rule 11 of Civil Procedure Code, 1908 ("CPC").
2. The applicant has raised the objection that the suit for declaration was filed beyond three years of the actual cause of action. The cause of action pleaded by the plaintiff was not the meaningful cause of action and it was only created for getting the suit within the limitation.
3. Learned counsel for the applicant submits that on a plain reading of the cause of action pleaded in the plaint, it is

clear that the suit would be barred by limitation. He submits that based on the sale deed dated 25th January 1966, the plaintiff has filed a suit for declaration in the year 2019 by creating an imaginary cause of action. Hence, the plaint is liable to be rejected at the threshold under Order VII Rule 11 (a) and (d) of CPC.

4. I have carefully perused the pleadings in the plaint. The plaintiff seeks a declaration of exclusive title and ownership of the suit property on the ground that he alone had paid the consideration for the sale deed dated 25th January 1966. The cause of action pleaded for seeking such a declaration is pleaded in paragraph 13 of the plaint by contending that defendant nos. 5 to 13 were trying to create third party rights on the ground that their names are shown in the sale deed and the revenue record. The plaintiff has contended that based on the sale deed dated 25th January 1966, Govind Namdeo Urankar and Hiranman Namdev Urankar could not claim any right and thus, defendant nos. 1 to 4 would not have any right title interest in the suit property. In view of the grounds pleaded for exclusive title and possession, the trial court held that the issue of limitation would be a mixed

question of law and facts and the plaint cannot be rejected at the threshold.

5. It was the contention of defendant no.7 that the cause of action is shown to have arisen on 12th December 2018 when the defendant did not respond to the notice of the plaintiff. However, the cause of action had actually arisen in the year 1970. Hence, the suit for declaration ought to have been filed within three years. With reference to the objection raised on the issue of limitation by defendant no.7, the trial court has referred to the pleadings in the plaint regarding the reasons contended by the plaintiff for seeking declaration in the year 2019. According to the cause of action, pleaded in the plaint, the cause of action arose in the second week of December 2018. Hence, it is held that in view of the pleadings, the plaintiff would be entitled to lead evidence to support the cause of action to contend that the suit would be within limitation.

6. Considering the pleadings and the nature of relief prayed in the plaint, the plaintiff would be entitled to lead evidence to support the cause of action. In the present case, the issue of limitation would depend upon the cause of action

which is based on the bundle of facts which are pleaded in the plaint. The plaintiff has pleaded that though the sale deed is also in the name of Govind and Hiranman, the plaintiff alone is the owner. Therefore, date of sale deed would not be the only relevant criteria to decide the cause of action. The ground to seek declaration is the attempt of the defendants to create third party rights. Whether the cause of action pleaded is valid or not would be decided in the trial. Hence, the plaintiff would be entitled to lead evidence to support the cause of action to contend that the suit is within limitation.

7. I do not see any jurisdictional error or any other manifest error in the impugned order warranting any interference in exercise of powers under Section 115 of the CPC.

8. This civil revision application is therefore, dismissed.

9. It is further clarified that the observations and the findings recorded in the impugned order are restricted to the decision on the application under Order VII Rule 11 of CPC. Hence, all rival contentions of the parties on merits are kept open to be decided in the suit.

10. The civil revision application is dismissed subject to the aforesaid observations.

11. In view of dismissal of the civil revision application, interim application is disposed of as infructuous.

[GAURI GODSE, J.]