IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2025
(arising out of SLP(C) No. 16809/2025)

BABASAHEB RAMDAS SHIROLE & ORS. ..... APPELLANT(S)

VERSUS

ROHIT ENTERPRISES & ORS. ..... RESPONDENT(S)

O R D E R

Leave granted.

The appellants are the plaintiffs in Special Civil Suit No. 126/2023 on the file of the learned 2nd Joint Civil Judge (Senior Division), Sangamner. The said suit was filed for declaration of title, permanent injunction and cancellation of the sale deed dated 20.07.2013. While so, the defendants in the said suit filed an application under Order VII Rule 11 of the Code of Civil Procedure, 1908[1], seeking rejection of the plaint. The trial Court dismissed the same by order dated 08.04.2024.

Aggrieved thereby, the defendants in the suit filed Civil Revision Application No. 124/2024 before the High Court of Judicature at Bombay, Aurangabad Bench. By judgment dated 09.04.2025, the High Court allowed the revision and Special Civil Suit No. 126/2023 on the file of the learned 2nd Joint Civil Judge (Senior Division), Sangamner, stood rejected.

1 "CPC", for short

Assailing the said judgment, the plaintiffs in the suit are before this Court.

Perusal of the judgment under challenge reflects that the High Court was of the opinion that the suit was barred by limitation. This was on the premise that, by way of the suit filed in the year 2023 the plaintiffs wanted to invalidate a sale deed executed a decade earlier. Further, the High Court was of the opinion that sufficient pleadings had not been made in the plaint with regard to the allegation of fraud.

Insofar as the second aspect is concerned, we are of the considered opinion that it was not for the High Court to consider the merits of the case as per the averments in the plaint.

As regards the first aspect, it is well settled that limitation is a mixed question of law and fact and unless the same is patently and unequivocally clear, it cannot form a ground under Order VII Rule 11 of the CPC for non-suiting a plaintiff. In the case on hand, perusal of the plaint indicates that the plaintiffs claimed that the cause of action arose in October 2023, when defendant No. 1 started quarreling with them for the first time, showing his true colors by trying to grab the suit properties and interfering with their peaceful possession over the same.

In the light of this averment, the High Court clearly erred in jumping to the conclusion that there was a delay of 10 years on the part of the plaintiffs in assailing the sale deed executed in the year 2013. The High Court lost sight of the fact that it was the plaintiffs' case that the said sale deed was only a sham and was coupled with a development agreement executed on the same day.

These were issues that required to be examined on evidence and could not have been summarily rejected by the High Court in exercise of jurisdiction under Order VII Rule 11 of the CPC.

The impugned judgment/order is, accordingly, set aside and the appeal is allowed, restoring Special Civil Suit No. 126/2023 to the file of the learned 2nd Joint Civil Judge (Senior Division), Sangamner.

The trial Court may endeavour to expedite the trial and hearing in the suit, given the fact that proceedings therein have already been delayed.

Needless to state, the trial Court shall consider the case on its own merits in accordance with law and on the strength of the evidence produced before it, uninfluenced by the observations made by the High Court and this Court.

Pending application(s), if any, shall stand disposed of.

.....J.
(SANJAY KUMAR)

.....J.
(ALOK ARADHE)

NEW DELHI;
NOVEMBER 17, 2025.

ITEM NO.41 COURT NO.13 SECTION IX-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition for Special Leave to Appeal (C) No. 16809/2025

[Arising out of impugned final judgment and order dated 09-04-2025 in CRA No. 124/2024 passed by the High Court of Judicature at Bombay]

BABASAHEB RAMDAS SHIROLE & ORS. Petitioner(s)

VERSUS

ROHIT ENTERPRISES & ORS. Respondent(s)

(IA No. 146755/2025 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 146756/2025 - EXEMPTION FROM FILING O.T. and IA No. 186338/2025 - EXEMPTION FROM FILING O.T.)

Date : 17-11-2025 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE SANJAY KUMAR
HON'BLE MR. JUSTICE ALOK ARADHE

For Petitioner(s) : Dr. Arvind S. Avhad, AOR
Mr. Rishabh Singh, Adv.
For Respondent(s) :
Mr. Nishant R. Katneshwarkar, Adv.
Mr. Somiran Sharma, AOR
Mr. Anuj Fulpagar, Adv.
Ms. Snigdha Shresth, Adv.

UPON hearing the counsel, the Court made the following
O R D E R

Leave granted.

The impugned judgment/order is set aside and the appeal is allowed, restoring Special Civil Suit No. 126/2023 to the file of the learned 2nd Joint Civil Judge (Senior Division), Sangamner, in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(DEEPAK GUGLANI)
AR-cum-PS

(PREETI SAXENA)
COURT MASTER (NSH)

(signed order is placed on the file)