

:- ORDER BELOW EXH- 79 :-

(1) Present application filed by the Defendant Nos. 2 and 3 under Order 7 Rule 11(d) of the Code of Civil Procedure, 1908 praying for rejection of the plaint on the ground that the suit is barred by limitation and is otherwise vexatious and devoid of any cause of action.

(2) The plaintiffs have filed the present suit seeking cancellation of the registered sale deed dated 25-09-1995 executed by them in favour of the father of Defendant Nos. 2 and 3 Late Shree Vinodchandra Amarchand Sheth, in respect of the agricultural land bearing Survey No. 196, situated at Mouje Makhiyav, Taluka Sanand, District Ahmedabad. The suit has been filed on 05-02-2011, i.e., more than 15 years after the execution and registration of the sale deed.

(3) The Defendant Nos. 2 and 3 have contended that the plaintiffs had executed a registered sale deed dated 25-09-1995 in favour of their deceased father, Vinodchandra Amarchand Sheth, in respect of the suit agricultural land bearing Survey No. 196, admeasuring Hectare-Are-Sq.Mtr. 1-36-10, situated at Mouje Makhiyav, Taluka Sanand, District Ahmedabad. Pursuant to the said registered sale deed, the entire right, title and interest in the suit land together with actual physical possession was transferred and delivered to the deceased father of the applicants. Since the date of execution of the registered sale deed, the father of the defendant no.2 and 3 was enjoying the suit land as absolute owner and in possession thereof.

It is further stated that after the execution of the sale deed, Mutation Entry No. 3933 was recorded in the revenue records, whereby the name of the father of the defendants was entered as owner and occupant of the suit land. The applicants have submitted that despite the execution of the registered sale deed in the year 1995, the plaintiffs have filed the present suit on 05-02-2011, i.e., after a delay of approximately 16 years, seeking cancellation of the said registered sale deed. According to the applicants, the suit is clearly barred by the law of limitation, particularly under Article 59 of the Limitation Act, 1963, which provides a period of three years for filing a suit for cancellation of a document.

Additionally, the applicants have averred that the plaintiffs had earlier instituted Regular Civil Suit No. 205 of 2006 before the Civil Court at Sanand against the deceased father of the applicants, in which the plaintiffs had filed a Compromise Pursis (settlement deed) and had categorically admitted that they had executed the registered sale deed dated 25-09-1995 in favour of Vinodchandra Amarchand Sheth, that they had received full consideration, and that they had no right, title or interest of any nature whatsoever left in the suit property.

It is further contended that the plaintiffs had also executed a Kabulat (Confirmation Deed) dated 11-12-2007 in favour of the deceased father of the applicants, wherein they once again admitted the execution of the registered sale deed dated 25-09-1995, receipt of full sale consideration, delivery of possession, and confirmed that neither the plaintiffs nor their heirs, successors or assigns have any right, title or interest left in the suit land. In the said Kabulat, the plaintiffs had also undertaken to withdraw the earlier suit being Regular Civil Suit No. 205 of 2006.

The applicants have submitted that by filing the present suit, the plaintiffs are attempting to reagitate a settled and concluded transaction by suppression of material facts and by clever drafting of the plaint. It is therefore prayed that the plaint is liable to be rejected under Order 7 Rule 11(d) CPC as the suit is barred by limitation and is otherwise vexatious and an abuse of the process of the Court.

(4) The plaintiffs have filed a reply at Exhibit 83 opposing the application filed by Defendant Nos. 2 and 3 under Order 7 Rule 11(d) CPC. The plaintiffs have submitted a bare denial reply, wherein they have denied almost all the averments made in the application paragraph by paragraph.

The plaintiffs have contended that the application filed by the defendants is not true, not correct, and not admissible in law. They have submitted that the application is not tenable in law, is not in proper form, and is contrary to the provisions of the Code of Civil Procedure, and therefore deserves to be rejected. With regard to the issue of limitation, the plaintiffs have specifically averred that the question of limitation is a mixed question of law and fact, which cannot be decided

at the stage of Order 7 Rule 11(d) CPC without recording of oral as well as documentary evidence of the parties.

They have submitted that the said issue can only be decided after full-fledged trial. The plaintiffs have further contended that while considering an application under Order 7 Rule 11(d) of the Code of Civil Procedure, the Court is required to look into only the averments made in the plaint and the documents produced along with the plaint. The defence of the defendants, their written statement, or any documents produced by the defendants cannot be taken into consideration at this preliminary stage. It is also the case of the plaintiffs that the present application has been filed by the defendants with mala fide intention and with an oblique motive to delay the hearing and disposal of the suit.

They have submitted that issues have already been framed in the suit, and the plaintiffs have led their evidence, and at this stage, the defendants cannot be permitted to obstruct the progress of the suit by filing such an application. The plaintiffs have, therefore, prayed that the application of defendant no.2 and no.3 be rejected with exemplary costs.

(5) Ld. advocate appearing for the applicants Defendant Nos. 2 and 3 has submitted that the present suit is clearly barred by the law of limitation and the plaint is liable to be rejected under Order 7 Rule 11(d) of the Code of Civil Procedure, 1908. In support of his submissions, the Ld. advocate has relied upon the following two authoritative judgments.

(1) Raghwendra Sharan Singh v. Ram Prasanna Singh (Dead) By LRs. (2019 INSC 357 = 2019 SCC OnLine SC 372) decided by the Hon'ble Supreme Court of India on 13th March, 2019. In the said judgment, the Hon'ble Supreme Court has held that if, on a meaningful reading of the plaint, it is apparent that the suit is barred by limitation, then the plaint is liable to be rejected under Order 7 Rule 11(d) CPC at the threshold. The Apex Court has categorically observed that clever drafting cannot save a time-barred suit. Merely by claiming that the document is sham or by avoiding the prayer for cancellation while still challenging its validity, the plaintiff cannot bring the suit within limitation. The Court must "nip in the bud" such vexatious and

meritless litigation. The Hon'ble Supreme Court further held that limitation need not always be treated as a mixed question of law and fact at the stage of Order 7 Rule 11(d), if the bar of limitation is clearly evident from the averments in the plaint itself.

(2) Becharbhai Zaverbhai Patel & Anr. v. Jashbhai Shivabhai Patel & Ors. (Civil Revision Application No. 186 of 2011) decided by the Hon'ble Gujarat High Court on 10th April, 2012 (Coram: Hon'ble Mr. Justice M.R. Shah). In this case, the plaintiffs had challenged a registered sale deed executed in the year 1975 after a delay of 35 years. The Hon'ble Gujarat High Court held that registration of a document amounts to deemed knowledge to the executant. When mutation entries are also effected in the revenue records pursuant to the registered sale deed, the plaintiffs are presumed to have knowledge of the transaction from the date of registration. The Court held that vague averments in the plaint claiming "recent knowledge" cannot extend the period of limitation. The plaint was accordingly rejected under Order 7 Rule 11(d) CPC holding the suit to be barred by limitation.

The Ld. advocate for the applicants submitted that the facts of the present case are squarely covered by the ratio laid down in the aforesaid two judgments and, therefore, the plaint in the present suit deserves to be rejected.

(6) Upon careful consideration of the plaint, the application at Exhibit 79, the reply filed by the plaintiffs at Exhibit 83, and the judgments cited by the Ld. advocate for the applicants,

It is transpired that It is an admitted position that the document in question is a registered sale deed dated 25-09-1995 executed by the plaintiffs themselves in favour of the deceased father of Defendant Nos. 2 and 3. It is a settled principle of law that registration of a document operates as deemed knowledge to the executants. The plaintiffs, being the executants of the registered sale deed, are presumed to have full knowledge of its execution and contents on the date of registration itself. (Relied upon Dilboo (Smt.) v. Dhanraji (Smt.), (2000) 7 SCC 702 and Becharbhai Zaverbhai Patel v. Jashbhai Shivabhai Patel, decided by the Hon'ble Gujarat High Court on 10-04-2012)

The present suit has been instituted on 05-02-2011, i.e., after a lapse of more than 15 years from the date of execution of the registered sale deed. As per Article 59 of the Limitation Act, 1963, a suit for cancellation or setting aside of a document must be filed within three years from the date of execution of the document or from the date when the facts entitling the plaintiffs to have the document cancelled first become known to them.

A perusal of the plaint reveals that the plaintiffs have not disclosed any specific date on which they allegedly came to know about the execution of the sale deed. The averments made in the plaint regarding knowledge are vague, general and evasive in nature. Such pleadings appear to be a deliberate attempt at clever drafting with a view to overcome the bar of limitation.

It is also pertinent to note that the plaintiffs had earlier filed Regular Civil Suit No. 205 of 2006 and had executed a Kabulat (Confirmation Deed) dated 11-12-2007, wherein they had unequivocally admitted the execution of the registered sale deed, receipt of full consideration, delivery of possession, and had further declared that they had no right, title or interest left in the suit property. These facts, even if not treated as pure defence, demonstrate that the plaintiffs were fully aware of the transaction since long and the present suit is nothing but an attempt to reagitate a settled transaction.

In view of the above facts and circumstances and applying the ratio laid down by the Hon'ble Supreme Court in *Raghwendra Sharan Singh v. Ram Prasanna Singh (Dead) By LRs.* (2019 INSC 357) and by the Hon'ble Gujarat High Court in *Becharbhai Zaverbhai Patel* (supra), this Court is of the clear and unequivocal opinion that the suit is ex-facie barred by limitation. The bar of limitation is apparent on the face of the plaint itself. The question of limitation in the facts of the present case does not require recording of elaborate oral evidence. The plaint is liable to be rejected under Order 7 Rule 11(d) CPC without proceeding further with the trial. Therefore, I pass the following order in the interest of justice.

-:: ORDER ::-

- The application filed by Defendant Nos. 2 and 3 below under Order 7 Rule 11(d) CPC is hereby allowed.
- The plaint of the present suit is rejected accordingly
- The Decree be drawn Accordingly

Pronounced in the Open Court on 8th Day of July, 2026.

Place: Sanand

(Ashadullakhan Rahimkhan Ghori)
Additional Senior Civil Judge
Sanand
(GJ00998)