

MHJN020011372023	Spl.C.S.No.221/2023 Pandurang-Vs-Vimal & Ors
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**ORDER BELOW EXH.16**  
**(Dated 14.01.2025)**

. Defendants no.1 to 5 have filed present application under Order VII Rule 11(d) of The Code of Civil Procedure for rejection of plaint, where the suit appears from the statement in the plaint to be barred by law of limitation.

2. Defendants submit that,plaintiff claims various relief in his suit. Defendants submit that,plaintiff claims declaration that the Judgment in LAR no.65/2004 dated 15.12.2009 was obtained by plaintiff by playing fraud upon the court and same is not binding on the right of plaintiff.

3. Defendants submit that,plaintiff and his three brothers were filed suit bearing R.C.S.no.109/2000 against Bharat Kundlik Suparkar on 02.03.2000. Plaintiff in present case was plaintiff no.2 in R.C.S.no.109/2000 and hence plaintiff has knowledge about the suit on 02.03.2000. Hence, plaintiff's suit is not within limitation,hence same may be rejected under Order VII Rule 11(d) of The Code of Civil Procedure.

4. Plaintiff strongly objected the application and submitted that, in LAR no.109/2000 as well as in R.C.A.no.33/2002, the defendants back behind of the plaintiff on the basis false pursis and fabricated compromise-deed likewise on the basis of fabricated signatures of the plaintiff,the defendants obtained orders in their

favour by playing fraud upon the Court. Hence contention of defendants that plaintiff had knowledge of those proceedings have no any basis. Hence, application may be rejected.

5. Perused application and say.

6. Heard.

7. After perusal of record, it appears that, defendants claim for rejection of plaint on the ground that, the suit appears from the statement in the plaint to be barred by law of limitation. After perusal of pleadings of the plaintiff prima facie it appears that, defendants fabricated plaintiff's signature and prepared false compromise-deed. Likewise by fabricated withdrawal pursis, defendants played fraud upon the court and obtained orders, decrees in their favour. In short plaintiff's claim is that he has no knowledge about all these malpractices played by defendant against him.

8. In view of rival pleadings of the parties while deciding application under Order VII Rule 11(d) of The Code of Civil Procedure, it would be just and relevant to consider the pleadings of the plaintiff. The wording of Order VII Rule 11(d) is that-

“The plaint shall be rejected in the following cases-  
(d) where the suit appears from the statement in the plaint to be barred by any law”.

9. After perusal of statement in the plaint, prima facie it appears that, plaintiff's pleading is that defendants were fabricated documents and obtained order in their favour, back behind of the plaintiff, as plaintiff was unaware about the same. It is settled principle

of law that, issue of Limitation is mixed question of fact and law. Yet, trial is not commenced in this case. Hence, objection raised by defendants at this preliminary stage is not tenable. Accordingly, order follows :

**ORDER**

The application is hereby rejected.

Date: 14.01.2025

(Dilip S. Thorat)  
Civil Judge (Sr.Divn.)  
Jalna

**CERTIFICATE**

I am stating that, the contents of this P.D.F. file are word to word as per original order.

Name of Stenographer : Shirish D.Deshmukh  
Name of Court : Civil Judge(Sr.Divn.), Jalna.  
Date of PDF : 15.01.2025.

Steno(M.)