

MHKO050026192016



ORDER BELOW EXH. 33 IN R.C.S. NO. 185/2016

This is the application of defendant for preliminary issue.

2. Defendant stated that suit it filed for removal of encroachment and for possession. On 06.05.2016 plaintiff filed complaint in Nagar Parishad to remove encroachment and recover possession from defendant. On the same day notice was sent and it was demanded to remove encroachment and give possession. He mentioned in his WS that he built compound wall at his boundary and thereafter plaintiff purchased on 24.08.1995. Plaintiff purchased land after seeing the boundry wall of defendant. Defendant was made construction in 1992 and plaintiff constructed in 2009. Hence, defendant want to frame preliminary issue i.e. suit is not within limitation and it is barred by limitation. Hence, he prayed that application be allowed.

3. Plaintiff has filled his say at Exh. 36 and stated that plaintiff was filed suit in the year 2016 for removal of encroachment. After four years defendant has filed her WS. The issues were framed on 08.12.2017. That time defendant has filed application. Only to oppse the application he filed this application. Hence, prayed that application

be rejected.

4. It appears that suit is filed for removal of encroachment and possession. Thereafter, defendant was filed her WS at Exh. 11. Then issues are framed at Exh. 21 on 08.12.2017. The present application was filed on 15.09.2021. Provision of section 9-A in Civil Procedure Code has been deleted. Therefore, this application needs to be rejected. Hence, order-

ORDER

1. The application is rejected.
2. No order as to costs.

Date: 14.08.2024

(S. S. Pednekar)
5th Jt. Civil Judge, Junior Division,
Ichalkaranji