


<p>MHKO160007882021</p> 	<p><u>ORDER BELOW EXH.24 IN</u> <u>R.C.S.NO.108/2021</u></p>
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1. The defendant Nos. 3 and 4 have filed this plaint rejection application under Order 7 Rule 11(d) of the Code of Civil Procedure. They state that the suit is filed for partition, separate possession, cancellation of sale-deed and permanent injunction.

2. They state that they have purchased some part of the suit property from defendant Nos. 1 and 2 by registered sale-deed dated 01/07/1998. At that time, plaintiffs were minor. The property has been sold for legal necessity and, since the date of sale-deed, the defendants have been in peaceful possession of the suit property. The plaintiffs ought to have filed suit within three years after attaining majority, but, it has been filed beyond the limitation period. Plaintiffs are knowing the sale-deed. This suit is filed to grab the property as it's price is increased. Therefore, defendants prayed to reject the plaint.

3. Plaintiffs have filed their say stating that the suit property has been in the possession of the plaintiff. After knowing the alleged sale-deed, plaintiffs have filed this suit. Therefore, this suit is within limitation. This application is not tenable. Therefore, plaintiffs prayed to reject the application with costs.

4. After hearing both the learned advocates of the parties and after perusal of all the documents, this court finds that the limitation issue is mixed question of fact and law. There needs full fledged trial to decide the limitation issue. It is also necessary that whether the suit property has been sold for legal necessity or not. To find out it, there needs a full fledged trial.

Plaintiffs have stated in their plaint that suit is within limitation. It is prima-facie seen that the alleged sale-deed dated 01/07/1998 has been made in contravention of Section 8 of Hindu Adoption and Maintenance Act. At this stage, it is necessary to see the contents of the plaint only. Therefore, this court finds that suit must go for trial. It is a partition suit. Rights of the parties are involved in this suit. Therefore, this court does not find any merit in this application and the same is liable to be rejected. Hence, following order.

ORDER

Application Exh. 24 is hereby rejected.

Date:- 21/04/2023

**(Amol Shriram Shinde)
Civil Judge Junior Decision,
Malkapur-Shahuwadi,
Dist. Kolhapur**