

Order below Exh.220 in RCS No.42/2012

By this application defendant No.2 has requested to frame an additional issue in respect of limitation at **Exh.21**, on the grounds mentioned in the application. The contents of application in short are:- that initially an issue of limitation was framed by this Court but later on while recasting the issues, the said issue came to be omitted. There is special provision in The Maharashtra Municipal Councils, Nagar Panchayats and Industrial Township Act, 1965 regarding limitation. Plaintiff has to file a suit within limitation and therefore, the issue of limitation is necessary. Hence, the application.

2. Plaintiff has filed his say and raised objections on several grounds. The contents of his say in short are:- that the application is not maintainable and it is only file for causing delay in the matter. Issues are framed at **Exh.21** and as some of the issues were considered to be irrelevant, some of them came to be deleted. That while recasting the issues, this Court has considered all the facts pleaded by the parties and there is no need to frame separate issue regarding limitation. Hence, requested to reject the application.

3. Perused application and say. Heard both the sides. Both of them have submitted in the line of their application and say respectively Record shows that the plaintiff has filed this suit for recovery of Rs.5 Lacs from defendants. Defendant No.1 is Municipal Councils, Nilanga and the plaintiff has challenged the agreement by way of this suit. Record further shows that on two occasions issues came to be framed at **Exh.21** and at last on 16/11/2000, all the existing issues came to be re-casted. However, the issue of limitation is not framed by the Court. An issue of limitation being a mixed question of fact and law doesn't requires to be pleaded. As per provisions of Section 304 of the above referred Act there is a special provision in respect of period of limitation. It means the general law of limitation as provided in the limitation Act, 1963 will not be applicable to the present suit. For these reasons, I am of the view that no prejudice will be caused in case if an additional issue of limitation is framed. Hence, I pass following order:-

ORDER

1. An additional issue of limitation is framed at **Exh.21**.
2. Parties shall take note and are at liberty to adduce their evidence on the said issue, if they desires to do so.
3. No order as to costs.

Date :02/04/2025

(Ashish B. Marlecha)
Civil Judge (Sr.Dn.),
Nilanga, Dist. Latur.