

ORDER BELOW EXH.14 IN REG.CIVIL SUIT NO. 68/2014

Present application is moved by the defendant no.1 and 2 under order seven rule 11 of the Code Of Civil Procedure. These defendants have submitted that the gift deed which is the subject matter of the suit is numbered 399/1984. It was prepared and registered on 8th June 1984. Therefore, there is a bar of limitation, hence it is prayed that the application be allowed and plaint be rejected.

2. On the other hand, the plaintiff has raised a strong objection to the present application. According to him, the suit is well within limitation. Hence, rejection of the application is prayed for.

3. The learned advocate for the defendants was absent when called repeatedly. This is an old application of the year 2014. Hence the matter is apt to proceed without their argument. Heard the argument of the plaintiff in brief. A plaint can be rejected under Order 7 Rule 11 of the Code of Civil Procedure only if any one of the criterions mentioned therein are satisfied. There must be a sound ground for doing so as the plaintiff is denied the right to contest the matter. Through the present application, the

defendants have prayed for the rejection of the suit on the point of limitation. For deciding this aspect, the law is clear that the court can only read through the plaint. No documentary evidence or written statement can be relied upon for deciding the aspect of rejection of plaint. I have minutely read the plaint. There is no statement in the plaint that would on the face suggest that the suit is time barred.

4. The point as to limitation is a mixed question of facts and law. It can be decided by framing an issue pertaining it. The parties can be given an opportunity to adduce evidence and thereafter the point can be considered. The point as to limitation is often a mixed question of facts and law and hence in my opinion, this is not a just reason for rejecting plaint at an initial stage. Having observe the same, I proceed to pass following order-

Order

1. Application is rejected.
2. Both parties to take note.

Date : 24.07.2023

(K. N. Gowariker)
Civil Judge Junior Division,
Dindori