

MHRG100013832022

**ORDER BELOW EXH. 1 IN R. C. S. NO. 87/2022***(Passed on 24/02/2026)*

This is an application filed by the defendant No. 1 under Order 7 Rule 11 (d) of Code of Civil Procedure (For short 'the Code') for rejection of the plaint, at suit is barred by law.

2. The defendant No. 1 contended that, suit is not instituted within limitation. Reason mentioned in para No. 15 of the plaint is not legal. It is also mentioned by the defendant No. 1 that, on 21/08/2015 execution of sale deed had come to his knowledge, but he has not mentioned on what date copy of sale deed No. 1021/2003 had been received to him. Suit was instituted in the month of November, 2022 and delay in 4 years and 11 months. For all the above reasons, the defendant No. 1 is requested to be dismissed.

3. On the other hand, the plaintiff filed his say at Exh. 15 and opposed to the application on grounds that, he filed an application with Tahsildar Poladpur on 21/08/2015 about the Mutation Entry No. 3784. It was decided on 23/12/2015. Defendant preferred an appeal i.e. R.T.S.No. 30/2016, which was decided on 27/03/2017. Thereafter, plaintiff filed a revision application No. 369/2019 against it with Hon'ble Deputy Collector which was decided on 18/08/2020. The copy thereof was obtained on 10/10/2022. It was decided therein that validity of the registered deed is within the jurisdiction of Civil Court. Therefore, the suit is well within limitation. Hence, prayed for

application may be rejected.

4. The present application is filed on 04/05/2024. Say thereon was filed on 22/10/2024. It is pending for arguments since long. Sufficient opportunity was available to both parties to proceed further. Today all parties and learned advocates are absent. The present application is pending for more than 1 year and 9 months and suit is pending without any progress since long. Therefore, present application is proceeded without arguments of both sides.

5. On the perusal of record, it appears that, this is suit for declaration, cancellation of sale deed and injunction. At the outset, it is worthwhile to discuss here the following provision, principle and Judgments of the Hon'ble Apex Court.

**Rejection of plaint** - The plaint shall be rejected in the following cases :—

- (a) where it does not disclose a cause of action;
- (b) where the relief claimed is undervalued and the plaintiff, on being required by the court to correct the valuation within a time to be fixed by the court, fails to do so;
- (c) where the relief claimed is properly valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the court to supply the requisite stamp paper within a time to be fixed by the Court, fails to do so;
- (d) where the suit appears from the statement in the plaint to be barred by any law;
- (e) where it is not filed in duplicate;
- (f) where the plaintiff fails comply with the provision of Rule 9.

6. In the case of *Nusli Neville Wadia v. Ivory Properties & Ors., [AIR 2019 SC 5125]*. The Hon'ble Apex Court held that, *it cannot be laid down as proposition of law under Order 7 Rule 11(d) that plaint cannot be rejected as barred by limitation. It can be said that it is permissible to do so mainly in a case where the plaint averment itself indicate the cause of action to be barred by limitation*

*and no further evidence is required to adjudicate the issue.*

- a) *Though the plea of limitation is always mixed question of law and facts, in the instance case, the entire perusal of the plaint averments itself clearly shows that the suit itself is barred by limitation. At such time suit shall fall within the ambit of order 7 Rule 11 of the code for rejection of plaint.*
- b) *When a part of the relief sought for in the plaint is within time and even if another part of the relief sought for in the plaint is barred by limitation, a plaint cannot be rejection in part. A plaint cannot be rejected in part is a well settled proposition of law.*

7. In the case of *Sri Biswanath Banik & Anr. Vs. Smt. Sulanga Bose & Ors., Civil Appeal No. 1848/2022 Dt. 14 March 2022*, the Division Bench of Hon'ble Supreme Court held that, “so far as the issue whether the suit can be said to be barred by limitation or not, at this stage, what is required to be considered is the averments in the plaint. Only in a case where on the face of it, it is seen that the suit is barred by limitation, then and then only a plaint can be rejected under Order 7 Rule 11 (d) the Code of Civil Procedure on the ground of limitation. At this stage what is required to be considered is the averments in the plaint. For the aforesaid purpose, the court has to consider and read the averments in the plaint as a whole.

8. It is a clear that, an application is filed under Order 7 Rule 11 of the Code. Then, the application must be decided within four corners of the plaint. In the present case, the plaintiff contended that, he instituted suit within a period of limitation from date of knowledge regarding transaction of sale deed. He further contended that, the plaintiff filed a revision application No. 369/2019 against

R.T.S.No. 30/2016 with Hon'ble Deputy Collector which was decided on 18/08/2020. The copy thereof was obtained on 10/10/2022. It was decided therein that validity of the registered deed is within the jurisdiction of Civil Court. The plaintiff has disclosed cause of action and its genuineness will have to be decided on the evidence of both sides on merits. So also thereafter, question of limitation will be taken into consideration. At this juncture, in the present set of facts the question of limitation is mixed question of fact and law. Therefore, present matter plaint can not be rejected, as limitation becomes a mixed question of law and fact.

9. Considering the averments in plaint. I am of the opinion that, the plaint can not be rejected at this initial stage, limitation becomes a mixed question of law and fact. In the light of aforesaid Judgments of the Hon'ble Court and the provisions mention as above and discussion, in my view the application is liable to be rejected. Hence, the suit is not barred under Order 7 Rule 11 of the Code. Hence, I pass the following order :-

**ORDER**

1. Application Exh. 13 is hereby rejected.
2. Costs in cause.

*(Pronounced in open Court)*

Mahad,  
Date : 24/02/2026

(U. M. Jadhav)  
2<sup>nd</sup> Jt. Civil Judge Junior Division,  
Mahad, Dist. Raigad.

**CERTIFICATE**

I affirm that the contents of this P.D.F. file Judgment/Order are same, word to word, as per the original Judgment/Order.

Name of Court :- Mr. Uday Mahadev Jadhav,  
2<sup>nd</sup> Jt. Civil Judge (J.D.) and  
Judicial Magistrate First Class,  
Mahad.

Name of Stenographer :- Mr. B. T. Deshmukh

Date of decision / typed :- 24/02/2026

Judgment/order signed by :- 24/02/2026  
the P.O. on

Judgment/order uploaded on :- 24/02/2026