

MHRG140002482016



Order below Exhibit 60

in

RCS No. 16/2016

Janabai @ Prathibha Chavaji Mhatre

----- Plaintiff

Vs.

M/s. C.N.L.Builders through Chandar M. Lakhani

and others

----- Defendants

(Passed on 12.03.2026)

1. This is an application filed by defendant no. 1 to reject the plaint under Order VII Rule 11 (a and d) of the Code of Civil Procedure Code (CPC) on the point that there is no cause of action and the suit is barred by limitation.
2. The Plaintiff has contended that she has filed the present suit for declaration and permanent injunction. There is cause of action for filing this case. The suit is not barred by limitation. Hence, the application deserves to be rejected.
3. Considering all the submissions of both the parties, following points arise for my determination and I record my findings with the reasons stated below:

Sr. No.	Points	Findings
1]	Whether the suit is liable to be rejected on the point of limitation?	No
2]	Whether the suit discloses cause of action?	Yes
3]	What Order ?	Application is rejected.

:: REASONS ::

Point No. 1 to 3:- All the points, being inter-related, are being dealt together

4. Heard the Ld. advocate for the defendant no. 1 and plaintiff.

Arguments of the Defendant No.1:

5. Ld. advocate for the defendant no.1 argued that the plaintiff has filed the present suit for declaration, cancellation of the registered Deed of Relinquishment dated 16.06.2008, declaration that the Tripartite Agreement bearing Document No. 1191/2009 is not binding and therefore liable to be cancelled, and for a decree of permanent injunction.

6. The plaintiff has stated that the suit property mentioned in Paragraph 4 of the plaint was acquired, and that under the scheme of 12.5% of the acquired land, a plot admeasuring 1100 sq. meters was

declared in Dronagiri Node, Sector 27, bearing Plot No. 10. It is further stated that CIDCO issued a Letter of Intent in respect of the said plot on 24.01.2008. Thereafter, in Paragraph 5 of the plaint, it is stated that Defendant No. 3 and 4, through Defendant No. 2, M/s Dolly Developers, entered into a transaction for sale of the said 1100 sq. meter plot with Afsana Abbas Khan for consideration at the rate of Rs. 6,20,455/- per plot, totaling Rs. 68,25,000/- (Rupees Sixty-Eight Lakhs Twenty-Five Thousand Only). The said agreement was executed on 17.04.2007. For the purpose of sale of the plot, the plaintiff and Defendant No. 6 executed a registered Deed of Relinquishment in favour of Defendant No. 3 and 4 on 16.06.2008. Thereafter, as stated in Paragraph 6, the lease deed of the property was also executed in favour of Defendant No. 3 and 4 by way of the registered Deed of Relinquishment dated 16.06.2008. Subsequently, the lease deed of the property mentioned in Clause 1 of the suit was executed in favour of Defendant No. 3 and 4 on 17.08.2009, bearing Document No. 834/2009. The plaintiff has stated in the plaint that Defendant No. 3 and 4 executed a registered Tripartite Agreement bearing Document No. 1991/2009 dated 17.11.2009 in respect of the said plot.

7. By filing a written statement dated 20.04.2016, it is stated that the plaintiff was fully aware and had knowledge of the registered Deed of Relinquishment executed by the plaintiff and Defendant No. 5 and 6 in favour of Defendant No. 3 and 4 in respect of the suit property mentioned in Clause '1b', and that the said deed executed for sale of

the plot was true and legally valid. Similarly, the plaintiff was also aware of and had knowledge of the agreement entered into in the year 2007 with Defendant No. 2 regarding sale of the plot. After execution of the lease deed with CIDCO and the Tripartite Agreement with Defendant No. 1, the plaintiff and Defendant No. 3 to 6 were neither owners nor continued to be owners of the property mentioned in the plaint. The leasehold rights obtained by the plaintiff and Defendant No. 3 to 6 were transferred in favour of Defendant No. 1 under the Tripartite Agreement with effect from 17.11.2009. Therefore, after 17.11.2009, neither the plaintiff nor Defendant No. 3 to 6 had any right, title, or interest in the said plot, nor any connection with the ownership rights claimed in the present suit. Consequently, no cause of action survived for the plaintiff to file the suit.

8. The plaintiff's statement in Paragraph 10 of the plaint that the cause of action arose when notices were issued on 12.12.2013 or 12.06.2015 is false and has been made with dishonest intent solely to show that the suit has been filed within limitation. The plaintiff has not made any claim in the prayer clause against Defendant No. 3 and 4 on the ground of fraud. This clearly shows that the statements made by the plaintiff in this regard are false. As no cause of action has arisen, the suit is liable to be rejected under Order VII Rule 11(a) of the Code of Civil Procedure.

9. The plaintiff has admitted in the plaint the agreement executed with Defendant No. 2 for sale of the plot; however, although the said agreement was executed in the year 2007, the plaintiff has deliberately not mentioned the date in the plaint. Similarly, the plaintiff had full knowledge of the registered Deed of Relinquishment dated 16.06.2008, the subsequent lease agreement dated 17.08.2009, and the registered Tripartite Agreement executed in favour of Defendant No. 1 dated 17.11.2009. Therefore, for declaration and for injunction, the plaintiff was required to file the suit within three years (i.e. within three years from 2007, or from the Deed of Relinquishment dated 16.06.2008, or from the Tripartite Agreement dated 17.11.2009). As the suit is barred by limitation, it is hit by Order VII Rule 11(d) of the Code of Civil Procedure and is liable to be rejected under Order VII Rule 11.

Arguments of the plaintiff:

10. The plaintiff has filed the present suit for declaration, for cancellation of the Deed of Relinquishment dated 16.06.2008, and for a decree of permanent injunction.
11. The information stated in Clause (2) of the application came to the knowledge of the plaintiff from Defendant No. 3 and 4 on 12.12.2013. Thereafter, after collecting documents and on the basis of documents received from CIDCO Corporation, the plaintiff came to know that Defendant No. 3 and 4 had deceived the plaintiff and fraudulently obtained the Deed of Relinquishment. Prior thereto,

the plaintiff had no knowledge that a Deed of Relinquishment had been obtained from her and that, by virtue thereof, her rights in the suit property had been unlawfully divested. Hence, the plaintiff's suit has been filed within limitation and is not barred by the law of limitation.

12. In the present suit, the plaintiff is not a party to the Tripartite Agreement bearing Document No. 1191/2009 dated 17.11.2009 alleged to have been executed with Defendant No. 1, nor has the plaintiff received any monetary consideration under the said transaction, nor has the plaintiff derived any financial benefit therefrom. Defendant No. 3 and 4, with the assistance of Defendant No. 2, deceived the plaintiff and, taking advantage of her illiteracy, obtained the Deed of Relinquishment from her without any consideration and, on that basis, accepted the plot from CIDCO Corporation. The said plot was thereafter transferred in the name of Defendant No. 1 by Defendant No. 3 and 4, with the assistance of Defendant No. 2, by fraudulently executing a Tripartite Agreement, thereby causing financial loss to Defendant No. 3 and 4.

13. This shows that the application has been filed with the intention of delaying the trial of the plaintiff's suit. In Clause (11) of the plaint, the plaintiff has stated when the cause of action first arose, and thereafter, by issuing a notice dated 12.06.2015, demanded determination of her legal rights and share and called upon the defendants to take appropriate action. In reply thereto, Defendant

No. 1 issued a false and vexatious reply dated 07.08.2015, stating that he would contest the plaintiff's legal proceedings effectively at the plaintiff's cost. From the said reply notice of Defendant No. 1, it is clear that the cause of action for filing the suit had arisen. Therefore, the plaintiff's suit does not fall within the provisions of Order VII Rule 11 of the Code of Civil Procedure and is not liable to be rejected.

Reasoning:

14. The suit can be rejected under Order VII Rule 11 of the CPC only on the grounds if the suit does not disclose cause of action, relief claimed is undervalued and the plaintiff, on being required by the Court to correct the valuation, failed to do so within the time prescribed or if insufficiently stamped, fails to supply requisite stamp paper within the prescribed time on the plaint, or it is barred by law.
15. It is settled that while deciding an application under Order VII Rule 11 of the CPC, one has to consider only the plaint and documents filed along with it.
16. It is settled that when there is question of limitation, it must be noted that it is a mixed question of fact and law. The contention of the defendants that the suit is barred by limitation, needs to be adjudicated when parties lead evidence.

17. The Plaintiff has mentioned in the suit that she is not a party to the Tripartite Agreement dated 17.11.2009 and that she did not receive any monetary consideration or financial benefit from the said transaction. It is contended that Defendant No. 3 and 4, with the assistance of Defendant No. 2, deceived the plaintiff and took advantage of her illiteracy to obtain a Deed of Relinquishment from her without any consideration. On the basis of the said deed, they accepted the plot from CIDCO Corporation and subsequently transferred the plot in the name of Defendant No. 1 by fraudulently executing a Tripartite Agreement. It is further contended that the application has been filed with the intention of delaying the trial of the plaintiff's suit. The plaint mentions when the cause of action first arose, and thereafter the plaintiff issued a notice dated 12.06.2015 seeking determination of her legal rights and share and calling upon the defendants to take appropriate action. Thus, the cause of action is stated in the plaint.

18. The truth or falsity of the claim cannot be a ground to reject the suit.

19. In view of the above discussion, provisions of law and facts of the case, I answer **point no.1 and 2 accordingly.**

Point No.3:

20. Considering the above legal position, circumstances and in answer to point No. 3, I proceed to pass the following order:

:: Order ::

1. The application at Exhibit 60 is rejected.

2. No order as to costs

Sd/-

Place: Uran
Date :12.03.2026

(Ms. G. K. R. Tandon)
2nd Jt Civil Judge, J.D.,
Uran