

ORDER BELOW EXH.23 IN REG. CIVIL SUIT NO.154/2018**Passed on 03/02/2020**

CNR No.MHST160023302018

This is an application filed by defendants No.3 to 5 for rejection of plaint under Order-VII, Rule-11 of the Code of Civil Procedure.

02. The defendants No.3 to 5 submitted that the suit property was purchased by Dagadu Kondiba Thombare on 01/04/1954 and since then the suit property is in possession of defendants. They submitted that there is no cause of action for filing the present suit. They also submitted that the suit is not properly valued. They further submitted that the plaintiffs are challenging the sale deed which has been executed in the year 1954. Therefore, the suit is barred by limitation. Considering these three grounds, the defendants No. 2 to 5 prayed for rejection of plaint.

03. The plaintiffs have filed say at Exh.26 and denied all the contentions in the application. They submitted that the suit is properly valued. They submitted that the cause of action has been described in the plaint. The cause of action is a bundle of facts and it can be clearly gathered from reading the plaint. They also submitted that the suit is not barred under the Limitation Act. Hence, they prayed for rejection of the application.

04. I heard the learned advocate Shri.D.P.Dhumal, for the defendants No.2 to 5 and learned advocate Shri.A.C.Jadhav, for the plaintiffs.

05. I perused the plaint. It shows that the plaintiffs are seeking recovery of possession of agricultural lands on the basis of

title. It appears at this stage that the suit is valued as per the assessment of land revenue. The defendants have not shown how the valuation is incorrect. On perusal of entire plaint, it appears that the cause of action has been shown by the plaintiff in para No.3 of the plaint. Therefore, there is a cause of action for filing the present suit. Whether the relief claimed by the plaintiff is within a limitation period or not? is a mixed question of law and facts. It needs to be determined after recording the entire evidence.

06. As per Order-VII Rule 11 of The Code of Civil Procedure, 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 under-valued, and the plaintiff, on being required by the Court to correct the valuation within a fixed time, 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 correct the valuation within a fixed time, 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 to comply with the provisions of Rule – 9

07. As discussed above, the plaint shows the cause of action. The suit appears to be properly valued. Moreover, the issue of limitation is a mixed question of law & facts and needs to be decided after recording evidence. Therefore, at this stage, the plaint cannot be

rejected. Hence, I proceed to pass the following order-

ORDER

1. The application stands rejected.
2. The costs shall be cost in main cause.

Date : 03/02/2020

**(D.R.Mali.)
2nd Jt. Civil Judge, Jr. Dn., Wai.**