



R.C.S. No. 49/ 2022

Raju Shalik Atram -Vs- Kashiram Sambha  
Atram

CNR No. MHYA-1800-1701-2022

**ORDER BELOW EXH 39**

1. The present application is filed by defendant for framing of additional issue of limitation. It is his contention that he has raised objection of limitation in his written statement. Hence, prayed to frame additional issue of limitation.
2. Plaintiff by filing his say at Exh. 40 resisted the application contending that suit is well within limitation. The cause of action arises to the plaintiff is on 08/09/2022 which is date of order of Sub-Divisional Officer, Kelapur. He has received certified copies of mutation entries on 20/07/2021 and 09/09/2022 therefore, the present suit is well within limitation. The present application is filed only to prolong the matter. Hence, prayed to reject the application.
3. Heard both sides. They have argued as per their pleadings. As per defendant, the plaintiff in this cause of action mentioned the date of cause of action as on 08/09/2022 and also mentioned 20/06/2006 and 08/12/2006. Therefore, the limitation starts from the date of mutation entry that is either on 20/06/2006 or on 08/12/2006. Therefore, the issue of limitation is necessary. On the other hand, it is contention of plaintiff that the cause of action starts on the date of 08/09/2022 i.e. from the date of order of Sub-Divisional Officer,

Kelapur. He has no knowledge of mutation entry since 2006. Therefore, the suit is well within limitation.

4. It is seen from the plaint itself that along with date of order of Sub-Divisional Officer, Kelapur plaintiff also mentioned 20/06/2006 and 08/12/2006, this two dates for cause of action. But, whether the suit is in limitation or not can be decided at the final hearing. It is mixed question of law and facts. Therefore, at this stage, it is not necessary and lawful to look into whether suit is within limitation or not. Therefore, considering the pleading of both parties I found the issue of limitation is necessary. Hence, the following order.

### **Order**

1. Application is allowed.
2. Additional issue no. 3A, “ Whether suit is within limitation?” is framed below Exh. 25.

Date:- 08/04/2025.  
Place:- Ghatanji.

(A.A.Kalamkar)  
CJJD & J.M.F.C, Ghatanji