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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 941 OF 2015

M/s. Aswani BuildersAppellant
(Thr. Its Partner Shri. Lal
Nathirlal Aswani)

Vs.

Mr. Biharilal Changomal Konjier and OrsRespondents

Mr. Dilip Aswani appellant in person

CORAM : GAURI GODSE, J.

DATE : 8th JANUARY 2025

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ORDER:

1. Heard the appellant in person. The second appeal raises the following substantial questions of law:

(I) In view of the prayers in the plaint and the pleadings regarding cause of action, whether the plaint could have been rejected at the stage of Order VII Rule 11 of Code of Civil Procedure, 1908 ('CPC'), on the ground that the suit was barred by limitation in as much as the issue of

limitation in the facts of the case would be a mixed question of law and fact which could have been decided only after a trial?

(II) In view of the facts of the case and the pleadings, whether rejection of the plaint under clause (d) of Rule 11 of Order VII of CPC would be sustainable?

2. Office is directed to issue notice to the respondents on the aforesaid questions of law for final disposal of the second appeal at admission stage.
3. Notice is made returnable on 7th March 2025.
4. In addition to Court notice, appellant is at liberty to serve private notice alongwith copy of this order on the respondents and file affidavit of service before the next date.

[GAURI GODSE, J.]