

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 498 OF 2014

IN

SUIT NO. 402 OF 2013

Atithi Developments Pvt. Ltd.

... Applicant

Versus

Ramashankar R Yadav and others

... Respondents

WITH

NOTICE OF MOTION NO. 1007 OF 2013

IN

SUIT NO. 402 OF 2013

.....

Mr. Ranjeev Carvalho alongwith Ms. Leena Shah, Mr. Shubham Mishra instructed by Shah & Furia Associates, Advocate for the Plaintiff.

Mr. Aniket Ransubhe, Advocate for the Defendants No.1 and 2.

Mr. Ramchandra Yadav instructed by Legal Vizz, Advocate for the Defendant No.4 and for the Applicant in NMS-498-2014.

Mr. Vansh Bahadur Sabhajeet Yadav, Advocate for the Applicants/Intervenors in IAL-11694-2025 and IAL-11682-2025.

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CORAM : ABHAY AHUJA, J.

DATE : 24 JUNE 2025

PC. :

1. When the matter is called out, Mr. Carvalho, learned Counsel, appears for the Plaintiff and submits that the Notice of Motion No. 498 of 2014 has been taken out by Defendant No.4 for rejection of Plaint

under Order VII Rule 11 of the Code of Civil Procedure, 1908 (the “CPC”) and the pleadings are complete in the said matter.

2. Mr. Yadav, learned Counsel, appearing for the Defendant No.4 and for the Applicant in Notice of Motion No.498 of 2014 has submitted that since the Plaintiff does not disclose any cause of action against Defendant No.4, the Plaintiff be rejected. Mr. Yadav has also submitted that there is no privity of contract between Defendant No.4 and the other signatories to the Agreements of 1991 and 2003 and the Suit is for specific performance. That apart the Suit is not only barred by the law of limitation but also barred by *res judicata*.

3. Before Mr. Carvalho, has commenced his arguments, Mr. Vansh Yadav has interjected and submits that two Interim Applications viz. Interim Application (L) No. 11694 of 2025 and Interim Application (L) No. 11682 of 2025, which have been filed to intervene in the matters and for dismissal of the Suit on the ground of maintainability are not on board today.

4. As regards, removal of office objections, Mr. Yadav submits that the same will be removed by the 7th July 2025 and registered number will be obtained. Mr. Yadav submits that since these two Applications are for dismissal of the Suit on the ground of maintainability these two Applications would need to be heard and

disposed even before the Notice of Motion under Order VII Rule 11 of the CPC.

5. I see merit in the Mr. Vansh Yadav's submissions that the Applications seeking dismissal of the Suit on the ground of maintainability would have to be heard before the Notice of Motion under Order VII Rule 11 of CPC.

6. Mr. Ransubhe, learned Counsel, appearing for the Defendants No.1 and 2 submits that there is an Interim Application No.2048 of 2025 filed seeking condonation of delay and setting aside the order of the Prothonotary & Senior Master transferring the Suit against the Defendants to the list of undefended Suits and for condonation of delay in filing the written statement, which is not on board and the same may also be listed on the next date. This Court is informed that pleadings are not complete.

7. Accordingly, let reply to the said Application be filed within a period of two weeks with copy to the other side. Rejoinder be filed within a period of two weeks thereafter with copy to the other side.

8. List on **30th July 2025** alongwith Interim Application (L) No.11694 of 2025, Interim Application (L) No. 11682 of 2025 and Interim Application No.2048 of 2025.

(ABHAY AHUJA, J.)