

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

CSA No. 30/2013

Mst. Themu

.... /Petitioner(s)

Through :- Mr. V.R.Wazir Sr. Advocate with
Mr. Alok Singh Chib Advocate.

V/s

Ram Nath and others

....Respondent(s)

Through :- Mr. J. Hamal Advocate for R-1 &4

Coram: HON'BLE MR. JUSTICE VINOD CHATTERJI KOUL, JUDGE

ORDER

Heard learned senior counsel for the appellant.

The appeal is **admitted** on the following substantial questions of law:-

- (i) Whether to determine, when right to sue and cause of action accrues to the plaintiff, it was incumbent upon the 1st Appellate Court to examine the pleadings and evidence of the plaintiff in this regard and whether any deviation from the pleadings and evidence of appellant can be made by the 1st appellate Court, this aspect in the absence of any pleadings and evidence of the defendant to this effect ?
- (ii) Whether the issue of limitation which is mixed question of fact and law can be decided by the 1st Appellate Court in favour of respondents when the respondents failed to discharge the onus of said issue by leading any evidence in this regard ?

Issue post-admission notice to the respondents. Mr. Hamal learned counsel accepts notice on behalf of respondents No.1 and 4. Let notice go to the remaining respondents, returnable within four weeks.

Scanned record of the Trial Court be summoned.

List on 18.05.2023.²

Interim directions, if any, to continue till next date before the
Bench.

(Vinod Chatterji Koul)
Judge

Jammu:
27.03.2023.
Sanjeev

