
(2018) 09 BOM CK 0096

In the Bombay High Court

Case No : Civil Revision Application No.120 Of 2018

Kamal Narayan s/o Vithobaji Kore

APPELLANT

Vs

Ld.Civil Judge, Senior Division, through District Court, Gondia
and others

RESPONDENT

Date of Decision : 26-09-2018

Acts Referred:

Code of Civil Procedure, 1908 — Section 2(2), 96, 115(2)

Citation : (2018) 09 BOM CK 0096

Hon'ble Judges : A.S.Chandurkar, J

Bench : Single Bench

Advocate : D.C.R.Mishra,

Final Decision : Dismissed

Judgement

In this Civil Revision Application, the applicant who is the original plaintiff has challenged the order passed by the trial Court dismissing the suit on the

ground that the same was barred by limitation and that the Civil Court had no jurisdiction to entertain the same.

On the question of maintainability of the Civil Revision Application, it is submitted by Shri D.C.R.Mishra, learned counsel for the applicant that as

there is no adjudication on merits, the order passed by the trial Court cannot be termed to be a decree.Â In that regard, learned counsel has referred

to the decisions in RatansinghÂ Vs. Vijaysingh and others reported in AIR 2001 SC 279 and National Institute of Mental Health and Neuro

SciencesÂ Vs. C. Parameshwara reported in AIR 2005 SC 242.

The suit in question has been dismissed after answering the preliminary issues.Â In terms of Section 2(2) of the Code of Civil Procedure, 1908

(hereinafter referred to as "the Code", for short), that adjudication has force

of a decree.Â The learned counsel for the applicant sought to derive support from the observations as made in Ratansingh (supra) to urge that the impugned adjudication would :::Â Â Uploaded onÂ Â CRA120.182/2

within the meaning of Section 2(2) of the Code.

Under Section 115(2) of the Code, this Court has no jurisdiction to vary or reverse a decree or order that is passed by the Civil Court against which an appeal lies.Â It is found that the remedy of appeal under Section 96 of the Code is available to the applicant.

Hence, on that count it is held that the Civil Revision Application is not maintainable.Â

The applicant is at liberty to avail the remedy available to him in law.Â If the applicant invokes the statutory remedy available in law, the time spent

by the applicant in this Court in pursuing the civil revision application shall be taken into consideration while deciding the question of limitation.

Civil Revision Application is thus dismissed as not maintainable.Â The points as raised in the revision application are kept open. Â Â