IN THE HIGH COURT OF MADHYA PRADESH AT INDORE

BEFORE

HON'BLE SHRI JUSTICE VINAY SARAF

ON THE 13th OF AUGUST, 2026

CIVIL REVISION No. 1290 of 2025

SHRI NIWAS KAKANI

Versus

SHEETAL

Appearance:

Mr. Jitendra Bharat Mehta - Advocate for the petitioner.

Ms. Avdhi Jain - Advocate appearing on behalf of Mr. Hemant Jain - Advocate for respondent.

ORDER

This Civil Revision petition is preferred by the petitioner / defendant under Section 115 of Code of Civil Procedure, 1908 (for short referred as, 'CPC') impugning the order dated 13/10/2025 passed by VI Civil Judge, Junior Division, Indore (M.P.) in RCSB No. 583/2024, whereby the application moved on behalf of the petitioner under Order VII Rule 11(*d*) of CPC seeking rejection of plaint on the ground that the suit is *ex facie* barred by limitation, was dismissed.

2) The short facts of the case are that the respondent / plaintiff filed a suit for recovery of Rs. 2,34,558/- against the petitioner /defendant on 22/08/2024, on the ground that the plaintiff is the tenant of the defendant in two godowns situated at 80, Navlakha Main Road,

Indore @ Rs. 19,600/- per month. A civil suit is pending for eviction of the plaintiff filed by the defendant.

2.1) As per the plaintiff, the defendant failed to pay the Property Tax of the tenanted accommodation and consequently officers of Indore Municipal Corporation affixed the demand notice on the front wall of the property and thereafter, sealed the godowns on failure of the defendant to pay the Property Tax. As the plaintiff is carrying out business in the godowns and godowns were sealed by Municipal Corporation, the plaintiff was suffering in his business and compelled to pay the due amount of Rs. 2,34,558/- to the Municipal Corporation and after receipt of an amount of Rs. 2,34,558/-, the officers of the Municipal Corporation unsealed the premises.

2.2) The plaintiff issued a notice demanding the amount of Property Tax deposited by the plaintiff on 29/08/2019. The notice was duly served, however, the demanded amount was not paid by the defendant. The plaintiff filed an application for adjustment of the said amount in menses profit in the pending eviction suit, but the same was disallowed. Consequently, the plaintiff filed a suit for recovery of Rs. 2,34,558/- on 22/08/2024.

2.3) In the plaint, the plaintiff has stated that the cause of action for filing the suit accrued to the plaintiff for the first time on 29/08/2019, when the amount of Property Tax was paid by the plaintiff to the Corporation and thereafter, on 20/03/2020, when the notice was issued.

It is stated by the plaintiff that from 23/03/2020 due to COVID-19 Pandemic the lockdown was imposed and thereafter, for a period of 02 years the Courts were working under SOP and Supreme Court in ***Suo Motu*** **Writ Petition (C) No. 3 of 2020** has passed the order and extended the relaxation of limitation to all litigants in India. The plaintiff claimed that the suit is within limitation. The plaintiff has also moved an application under Section 5 of the Limitation Act for condonation of delay along with the plaint.

2.4) After appearance, the petitioner / defendant filed an application under Order VII Rule 11(*d*) read Section 151 of CPC stating that the suit filed by the plaintiff is *per se* time barred and the provisions of Section 5 of the Limitation Act are not applicable to the suit and consequently the plaint is liable to be rejected.

2.5) The Trial Court *vide* order dated 13/10/2025 dismissed the application moved by the petitioner / defendant on the ground that if the plaint is rejected due to barred by law, it will cause harm to the plaintiff and the object of the justice will be frustrated. The Trial Court further observed that if the plaint is rejected, it will result in financial loss to the plaintiff and consequently the application filed for rejection of plaint was dismissed.

3) With the consent of the parties, arguments heard for the purpose of final disposal of the Civil Revision.

4) Learned counsel for the petitioner / defendant submits that as

per the plaint itself, the cause of action accrued to the plaintiff on 29/08/2019 when the amount of Property Tax was paid by the plaintiff. He further submits that the limitation for filing of a suit for recovery is 03 years as per Article 23 of Schedule-2 of the Limitation Act, 1963 and the limitation will start from the date of making payment on behalf of the defendant by the plaintiff.

4.1) He further submits that the provisions of Section 5 of the Limitation Act are not applicable to the suits and therefore, the Trial Court has committed an error in dismissing the application filed by the petitioner under Order VII Rule 11(*d*) read with Section 151 of CPC.

4.2) Learned counsel further submits that the Supreme Court extended the limitation by order dated 10/01/2022 passed in *Suo Moto* Writ Petition No. 3 of 2020 and in the event when the original limitation was available to the litigant for more than 90 days from 01/03/2022, the litigant was allowed to avail the longer period of limitation. He prays for allowing the civil revision as well as the application filed under Order VII Rule 11(*d*) of the CPC and rejection of the plaint filed by the plaintiff.

5) The counsel appearing on behalf of the respondent / plaintiff opposed the prayer of the petitioner and submits that the Supreme Court by order dated 10/01/2022 issued the directions to exclude the period from 15/03/2020 till 28/02/2022 in computing the period prescribed for limitation and therefore, the period from 15/03/2020 till 28/02/2022 is

required to be excluded in computation of the limitation of 03 years from 29/08/2019 and if the said period is excluded, the suit preferred by the plaintiff is within limitation and therefore, the Trial Court has rightly dismissed the application.

5.1) Learned counsel further submits that the question of limitation is a mix question of law and facts and thus, can be decided only after recording the evidence of the parties. She relied on the judgment delivered by the Supreme Court in the case of **Ramesh B. Desai and Others Vs. Bipin Vadilal Mehta and Others** reported in **2006 (5) SCC 638**, wherein the Supreme Court has held that application under Order VII Rule 11(*d*) of the CPC filed for rejection of the plaint on the ground that the suit is barred by limitation cannot be accepted as for the purpose of deciding the issue of limitation, the recording of evidence is required and question of limitation is a mix question of law and fact.

5.2) Learned counsel further relied on the judgment delivered by the Supreme Court in the case of **Kamala and Others Vs. K. T. Eshwara Sa and Others** reported in **2008 (12) SCC 661**, wherein similar view has been taken by the Supreme Court. The counsel submits that the learned Trial Court has not committed any error in dismissing the application. Learned counsel prays for dismissal of the civil revision.

6) After considering the arguments advanced by learned counsel for the parties, it appears that the facts of this case are not in dispute. It is not in dispute that the plaintiff is tenant of the defendant in two godowns

situated at 80, Navlakha Main Road, Indore and the Property Tax of the suit property was due and therefore, the Municipal Corporation sealed the tenanted godowns in furtherance of demand of Property Tax. It is also not in dispute that the plaintiff deposited the due Property Tax of Rs. 2,34,558/- on 29/08/2019 with the Corporation, which was the liability of the defendant.

7) It is a known fact that the entire world faced the COVID-19 Pandemic from March, 2020 to February, 2022. The plaintiff filed the suit on 22/08/2024 seeking decree for recovery of the amount paid by the plaintiff for fulfilling the liability of the defendant.

8) In view of the above facts and circumstances of the case, the order passed by the Supreme Court in ***Suo Motu*** **Writ Petition (C) No. 3 of 2020** on 10/01/2022 is examined. The Supreme Court has extended the benefit of limitation by the said order and issued the following directions:

> *"I. The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi judicial proceedings.*
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> *II. Consequently, the balance period of limitation remaining as on 03.10.2021, if any, shall become available with effect from 01.03.2022.*
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> *III. In cases where the limitation would have expired during*

the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply.

IV. It is further clarified that the period from 15.03.2020 till 28.02.2022 shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings."

9). As per the direction No. (I), it is directed that the period from 15/03/2020 till 28/02/2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or *quasi*-judicial proceedings.

By direction No. (II), it is directed that the balance period of limitation remaining as on 03/10/2021, if any, shall become available with effect from 01/03/2022.

By direction No. (III), it is directed that in the cases where the limitation period have already expired during the period between 15/03/2020 till 28/02/2022, further limitation of 90 days will be available from 01/03/2022 and in the event of actual balance period of limitation remaining, with effect from 01/03/2022 is greater than 90 days, that longer period shall apply.

In direction No. (IV), the direction was issued to exclude the period for computing the limitation in respect of the cases of Arbitration and Conciliation Act, 1996, Commercial Courts Act, 2015, Negotiable Instruments Act, 1881 and other laws, wherein outer limit for condonation of delay is prescribed.

10) It is settled position of law that the provisions of Section 5 of the Limitation Act are not applicable to the suits. The facts of this case are not disputed in respect of calculation of limitation. The Trial Court dismissed the application only on the ground that if the plaint is rejected on technical ground of delay, it will cause financial loss to the plaintiff and the object of the justice will be frustrated.

11) The finding of the Trial Court is completely erroneous and the Trial Court has failed to understand the provisions of Order VII Rule 11 of CPC, which provides that in certain circumstances, the plaint will be rejected by the Court at any stage.

12) It is settled position of law that if a suit is barred by limitation, then plaint can be rejected under Order VII Rule 11(*d*) of the CPC and if for the purpose of calculation of limitation, recording of the evidence is required, then the plaint will not be rejected and the issue of limitation will be decided along with the other issues after recording the evidence. The Trial Court has not given any finding on the issue that the suit is within limitation after extending the benefit of exemption in limitation

granted by the Supreme Court in ***Suo Motu*** **Writ Petition (C) No. 3 of 2020** by order dated 10/01/2022. Trial Court has not recorded the finding that the case in hand will fall in which catagory.

13) In the above circumstances, the order passed by the Trial Court holding that if the plaint is rejected on the technical objection, it will cause financial loss to the plaintiff and will frustrate the object of law, cannot be given a seal of approval and is not sustainable in law. Consequently, the impugned order dated 13/10/2025 is hereby set aside. The matter is remanded to the Trial Court with a direction to decide the application filed by the defendant under Order VII Rule 11(*d*) of CPC on merits before taking any further step in the suit. Needless to mention that the Trial Court will decide the subject question without influenced by anything stated in this order. This court neither examined nor commented on the merits of the application.

14) With the aforesaid, Civil Revision petition is allowed and disposed of. No order as to costs.

(VINAY SARAF)
JUDGE

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