

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****Civil Revision No. 50 of 2016**

1. Sameer Chandra Suman, son of Shri S.K. Sinha, aged about 50 years.
2. Smt. Vinita Chandra Suman, wife of Shri Sameer Chandra Suman, aged about 45 years.

Both residents of House No.C-60, Near MGM High School, Tahsil & District Raipur , Civil & Revenue District Raipur (C.G.)  
.... Defendants

---- **Petitioners**

Versus

Gyanchand Tatiya, son of Shri Thakur Lal Tatiya, aged about 50 years, Coal Trading Trader, resident of Rishabh Kunj, Mahaveer Colony, Ahead of Chhotu Kiraya Bhandaar, Police Station Aamanaka, Mohba Bazar, Raipur, Tahsil & District Raipur (C.G.)

---- **Respondent**


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For Petitioners : Mr. Sameer Uraon, Advocate.

For Respondent : Mr. Mayank Chandrakar, Advocate.

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**Hon'ble Shri Justice Sanjay K. Agrawal****Order on Board****30/06/2016**

(1) The plaintiff filed a suit for recovery of Rs.15,24,000/- against the defendants. On summons being served, the defendants appeared and filed application under Order 7 Rule 11(d) of the Code of Civil Procedure stating that the suit is

barred by law as the suit has been filed beyond the period of limitation prescribed for filing suit for recovery and, therefore, the suit be dismissed.

(2) The trial Court, by the impugned order rejected the application holding that question of limitation is a mixed question of law and facts and for which evidence of the plaintiff is required to be recorded in support of his contention, against which, instant revision has been filed.

(3) I have heard learned counsel appearing for the applicant.

(4) It is well settled that the question of limitation is a mixed question of law and fact and the same cannot be decided without proper pleadings and without taking evidence thereon.

(5) The trial Court has rightly held that question of limitation is a mixed question of law & facts and for which evidence of the plaintiff is required to be recorded on the said question. Thus, I do not find any jurisdictional error in order impugned warranting interference by this Court under its revisional jurisdiction.

(6) Accordingly, the revision fails and is hereby dismissed. However, the defendants are at liberty to raise all the points in their written statement.

Sd/-

(Sanjay K. Agrawal)

Judge

D/-