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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION (L) NO.29175 OF 2025
WITH
INTERIM APPLICATION (L) NO.3831 OF 2025
WITH
INTERIM APPLICATION NO.5370 OF 2025
IN
SUIT NO.247 OF 2025

Rameshchandra Hargovandas Patel,
Director and shareholder of Hickson &
Dadaji Pvt. Ltd.

...Applicant

In the matter between

Hickson & Dadaji Pvt. Ltd.

...Plaintiff

V/s.

Navinchandra Mangaldas Patel

...Respondent

Mr. Rahul Sarda with Mr. Rihal Kazi & Ms. Zainab Tinwala i/b. M/s. M & M Legal Ventures for the Plaintiff and for the Applicant in IAL/3831/25 and IA/5370/25

Mr. Rohaan Cama with Mr. Kyrus Mody i/b. Mr. Rakesh Agrawal for Defendant in Suit/247/2025 and for the Applicant in IAL/29175/2025.

CORAM: SANDEEP V. MARNE, J.

DATED: 23 SEPTEMBER 2025.

P.C.:

1) Plaintiff has filed Interim Application (L) No.29175 of 2025 seeking amendment in the Plaint.

2) The Suit has been instituted in the name of the Company-M/s. Hickson & Dadajee Pvt. Ltd. The Plaintiff has been verified by the Applicant in the Interim Application in his capacity as Director of the Company. Authority of the Applicant to file the Suit on behalf of the Company is questioned by the Defendant, who happened to be the Managing Director of the Company. The Suit is for recovery of loan advanced by the Company to the Defendant alongwith interest. With a view to obviate any possible technical objection about validity of the Applicant to file Suit on behalf of the Company, an amendment in the Plaintiff is now sought, which envisages replacement of the Plaintiff by the Applicant and transposition of the Company as Defendant No.2. The main frame of the Suit i.e. Suit for recovery of loan advanced to Defendant No.2 in favour of the Company remains the same. Instead of the Company pursuing the claim, now the claim is being pursued by its Director.

3) The amendment is sought to be opposed on behalf of the Defendant on twin grounds of it changing the nature of the Suit and the proposed amendment claim being time barred.

4) So far as the objection of change of nature of the Suit is concerned, in my view the objection is without any merit as the basic frame of the Suit does not change on account of amendment. The core issue involved in the Suit is Defendant's liability to return the alleged loan secured through the Company. Since capacity of the Applicant to prosecute the Suit on behalf of the Company is questioned by the Defendant, now the Applicant wants to pursue the Suit in his individual capacity as Director of the Company by transposing the Company as Defendant No.2. It is not that the Applicant is now seeking the relief of

return of loan advanced with interest to himself. The prayer essentially remains the same, which is for recovery of monies from the Defendant for being paid to the Company. Therefore, it cannot be said that the amendment changes the nature of the Suit.

5) So far as the objection of limitation is concerned, it cannot be said at this juncture that proposed amendment is so hopelessly time barred that the amendment application deserves to be rejected. After being served with amended Plaint if Defendant can make out the case of the claim being time barred, said issue can be decided at the trial of the Suit. The issue of limitation is thus expressly kept open. Similarly, all contentions of the parties on merits of the claim are expressly kept open. In my view, the amendment is necessary for the purpose of determining the real question of controversy between the parties.

6) In view of the above discussion the Interim Application is made absolute in terms of prayer clauses (a) and (b), which read thus:-

- a. This Hon'ble Court be pleased to permit/ allow the amendments to the Plaint in terms of 'Schedule 1' hereto;
- b. This Hon'ble Court be pleased to permit /allow the amendments to Interim Application (L) No.3831 of 2025 in the present Suit in terms of 'Schedule 2' hereto;

7) Interim Application (L) No.29175 of 2025 is accordingly **disposed of.**

8) Amendments to be carried out within a period of one week. Amended Plaint and Interim Application (L) No.3831 of 2025 be served on the Defendant within a period of one week. Liberty to the Defendant to file affidavit-in-reply opposing the Interim Application within a period

of two weeks of being served with copy of the amended Interim Application and amended Plaintiff.

9) List Interim Applications on **4 November 2025**.

[SANDEEP V. MARNE, J.]