

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2426 OF 2014
(arising out of S.L.P. (Civil) No. 23439 of 2012)

DAMODAR S.MUDLIYAR

Appellant(s)

VERSUS

SASA DETERGENT DIVISON AND ORS

Respondent(s)

O R D E R

Leave granted.

2. Having heard Mr. Mahabir Singh, learned senior counsel for the appellant, and Mr. Anil V. Anturkar, learned senior counsel for the respondent No. 1, we are satisfied that the High Court exceeded its jurisdiction in interfering with the just order passed by the trial court in allowing the amendment in the plaint. The trial court was alive to the statement of the respondent No. 1 that the description of the property in the suit agreement is different from the survey number now proposed to be mentioned in the amendment application. The trial court did find that there was some negligence on the part of the plaintiff, but it felt that the plaintiff could be given an opportunity to prove his case as he is dominus litis. The trial court, accordingly, granted amendment application subject to cost of Rs. 3,000/-.

3. The approach of the trial court cannot be said to be flawed. There was no justification for the High Court to interfere with the order of the trial court.

4. Civil Appeal is, accordingly, allowed. The impugned order is set aside. The order of the trial court is restored.

5. Needless to say that it will be open to the defendant No. 5 to raise the plea of limitation in the amended written statement and, if such a plea is raised, the trial court shall consider the same appropriately in accordance with law.

6. No costs.

.....J.
(R.M. LODHA)

.....J.
(SHIVA KIRTI SINGH)

NEW DELHI;J.
FEBRUARY 17, 2014 (N.V. RAMANA)
ITEM NO.53 COURT NO.2 SECTION IX

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).23439/2012

(From the judgement and order dated 06/01/2012 in WP No.1216/2011 of The HIGH COURT OF BOMBAY)

DAMODAR S.MUDLIYAR Petitioner(s)

VERSUS

SASA DETERGENT DIVISON AND ORS Respondent(s)

(With appln(s) for exemption from filing c/c of the impugned order and prayer for interim relief and office report)

Date: 17/02/2014 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.M. LODHA
HON'BLE MR. JUSTICE SHIVA KIRTI SINGH
HON'BLE MR. JUSTICE N.V. RAMANA

For Petitioner(s) Mr. Mahabir Singh, Sr. Adv.
Mr. Satpal Singh,Adv.

For Respondent(s) Mr. Anil V. Anturkar, Sr. Adv.
Mr. Subrat Birla, Adv.
Mr. S.C. Birla,Adv.
Mr. Sugandh Deshmukh, Adv.

UPON hearing counsel the Court made the following
O R D E R

Leave granted.
Appeal is allowed in terms of the signed order.

|(Rajesh Dham)
|Court Master

|(Renu Diwan)
|Court Master

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(signed order is placed on the file)