

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 5404 of 2012

DIAMOND WIRES PVT. LTD.

Appellant(s)

VERSUS

GOMATHI WIRES AND ANR.

Respondent(s)

O R D E R

Feeling aggrieved and dissatisfied by the judgment and order passed by the High Court by which the High Court has allowed the Civil Revision No.33 of 2010 filed by the original defendants as a result of which the suit which was filed by the original plaintiff for recovery of the amount for supply of the goods was barred by limitation, the original plaintiff has preferred the present appeal.

We have heard the learned counsel appearing on behalf of the respective parties at length. The Trial Court dismissed the application submitted by the original defendants under Order VII Rule 11 of the Civil Procedure Code (for short "the CPC") and refused to reject the plaint. It was the case of the original defendants that considering Article 14 of the Limitation Act, 1963 the suit was clearly barred by limitation. On the other hand, it was the stand of the original plaintiff that Article 1 of the Limitation Act would be applicable and therefore the suit was within the period of limitation. Learned Trial Court refused to reject the plaint under Order VII Rule 11 of the CPC. However in

exercise of revisional jurisdiction the High Court has set aside the order passed by the learned Trial Court and has rejected the plaint.

Having heard learned counsel appearing for the respective parties and considering the averments made in the plaint more particularly paragraph 8 of the plaint in which the plaintiff specifically pleaded that as per Article 1 of the Limitation Act, the suit is filed within the limitation and considering the fact that whether Article 1 would be applicable or Article 14 would be applicable is a question/issue to be decided on the basis of the evidence to be led, we are of the opinion that the High court has committed grave error in allowing the application filed under Order VII Rule 11 CPC and in rejecting the plaint.

In view of the above and for the reasons stated hereinabove, the present appeal is allowed. Impugned order passed by the High Court is hereby quashed and set aside and suit filed by the appellant-plaintiff is hereby restored to the file of the Trial Court. All the contentions including the issue of limitation and defences which may be available to the respective parties are to be kept open to be considered by the Trial Court on the basis of the evidence that may be led.

.....J.
(M.R. SHAH)

.....J.
(A.S. BOPANNA)

Dated : 30.05.2019
New Delhi

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

Civil Appeal No(s). 5404/2012

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Appellant(s)

VERSUS

GOMATHI WIRES & ANR.

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Date : 30-05-2019 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.R. SHAH
HON'BLE MR. JUSTICE A.S. BOPANNA
(VACATION BENCH)

For Appellant(s) Mr. Arjun Garg, AOR
Mr. Abhinav Shrivastava, Adv.

For Respondent(s) Mr. R. Jawahar Lal, Adv.
Mr. Siddharth Bawa, Adv.
Mr. Shyamal Anand, Adv.
Mr. Ashwani Kumar, AOR

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

Heard learned counsel for the parties.

The appeal is allowed in terms of the signed order.

Pending application, if any, shall also stand
disposed of.

(ANITA MALHOTRA)
COURT MASTER

(RAJINDER KAUR)
COURT MASTER

(Signed order is placed on the file.)