

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. \_\_\_\_\_ OF 2025

(Arising out of SLP (C) No.3527 of 2023)

M/S JAGTAP AND CO. & ORS.

APPELLANT(S)

VERSUS

VIMAL BHIMRAO JAGTAP & ORS.

RESPONDENT(S)

O R D E R

1. Leave granted.
2. We have heard learned counsel appearing for the respective parties. All parties are duly served and represented.
3. The appellant No.1/company, which is the plaintiff before the Trial Court, challenges the order dated 1<sup>st</sup> March 2022, passed by the High Court of Judicature at Bombay in W.P. No.5115 of 2019, titled "Vimal Bhimrao Jagtap and Ors. vs. Jagtap and Co. and Ors.", whereby the High Court set aside the order dated 31<sup>st</sup> December 2018 passed by the learned 8<sup>th</sup> Joint Civil Judge (Senior Division) in Special Civil Suit No.89/2005, titled "Jagtap & Co. vs. Sitabai Rambhau Jagtap", allowing the plaintiff's application for amendment.
4. It is undisputed that the plaintiff instituted the suit in the year 2005 and only in the year 2017, filed an application under Order VI Rule 17 Code of Civil Procedure seeking an amendment of the plaint. It is also undisputed that, prior thereto, no issues stood framed in the suit, be it for whatsoever reasons.
5. Having given thoughtful consideration to the matter, we are of

the view that the High Court ought not to have entertained the respondents' application under Article 226 of the Constitution of India, especially when the trial was still at a nascent stage. The primary concern of the High Court was whether the claims set out in the amendment and the relief prayed for were barred by limitation. However, in our considered view, such questions, being a mixed issue of fact and law, ought to have been left to be decided by the Trial Court. The Trial Court found the amendment necessary for determining the real questions in controversy between the parties. We do not find the order allowing the application for amendment to be perverse, for the High Court to have interfered with it, in its writ jurisdiction.

6. In light of the above, we quash and set aside the order dated 1<sup>st</sup> March 2022, passed by the High Court of Judicature at Bombay in W.P. No.5115 of 2019, titled "Vimal Bhimrao Jagtap and Ors. vs. Jagtap and Co. and Ors.", and allow the present appeal with the following directions:-

(a) The order dated 31<sup>st</sup> December 2018 passed by the learned 8<sup>th</sup> Joint Civil Judge (Senior Division) in Special Civil Suit No.89/2005, titled "Jagtap & Co. vs. Sitabai Rambhau Jagtap" allowing the application for amendment is affirmed;

(b) The respondents/defendants shall be at liberty to file an amended written statement, if not already filed, within four weeks from today;

(c) If filing of replication is permitted by the Trial Court, the same shall be filed positively within four

weeks thereafter;

(d). If issues are required to be recast, post allowing the amendment, they shall be re-framed within four weeks thereafter;

(e) All pleas and objections available to the parties, including the bar of limitation and Order II Rule 2 Code of Civil Procedure, are left open for the Trial Court to be considered and adjudicated as per law;

(f) The trial is expedited, and we request the Trial Court to decide the suit positively, within one year from today;

Parties shall appear before the Trial Court on 19.03.2025;

(g) The parties undertake to fully cooperate and not seek unnecessary adjournments.

7. Pending application(s), if any, stand disposed of.

.....J.  
(SANJAY KAROL)

.....J.  
(K.V. VISWANATHAN)

NEW DELHI;  
28<sup>th</sup> February, 2025.

ITEM NO.44

COURT NO.16

REVISED (For appearance)  
SECTION IX

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).3527/2023

[Arising out of impugned final judgment and order dated 01-03-2022  
in CWP No.5115/2019 passed by the High Court of Judicature at  
Bombay]

M/S JAGTAP AND CO. & ORS.

PETITIONER(S)

VERSUS

VIMAL BHIMRAO JAGTAP & ORS.

RESPONDENT(S)

IA No. 24803/2023 - EXEMPTION FROM FILING C/C OF THE IMPUGNED  
JUDGMENT

IA No. 24802/2023 - EXEMPTION FROM FILING O.T.

Date : 28-02-2025 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KAROL  
HON'BLE MR. JUSTICE K.V. VISWANATHAN

For Petitioner(s) :

Mr. Huzefa A. Ahmadi, Sr. Adv.  
Mr. Apoorv Shukla, AOR  
Mr. Ajinkya Jaibhave, Adv.  
Ms. Anusha Pradhan, Adv.  
Ms. Prabhleen A. Shukla, Adv.  
Mr. Ayush Acharjee, Adv.

For Respondent(s) :

Mr. Vinay Navre, Sr. Adv.  
Mr. Pravantak Suhas Pathak, Adv.  
Ms. Manshi Jain, Adv.  
Mr. Yashodhan Chandurkar, Adv.  
Mr. Ritu Raj, Adv.  
Ms. Shambhavi Kanade, Adv.  
Ms. Ankita Chaudhary, AOR  
Mr. Mohit Negi, AOR

Mr. Atharva Kotwal, Adv.

Mr. Arudhra Rao, Adv.  
Mr. Anuj Bhave, Adv.

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

1. Leave granted.
2. The appeal is allowed in terms of the signed order, which is placed on the file.
3. Pending application(s), if any, shall stand disposed of.

(D. NAVEEN)  
COURT MASTER (SH)

(NIDHI MATHUR)  
COURT MASTER (NSH)

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 (C) No(s).3527/2023

[Arising out of impugned final judgment and order dated 01-03-2022 in CWP No.5115/2019 passed by the High Court of Judicature at Bombay]

M/S JAGTAP AND CO. & ORS.

PETITIONER(S)

VERSUS

VIMAL BHIMRAO JAGTAP & ORS.

RESPONDENT(S)

IA No. 24803/2023 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 24802/2023 - EXEMPTION FROM FILING O.T.

Date : 28-02-2025 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KAROL  
HON'BLE MR. JUSTICE K.V. VISWANATHAN

For Petitioner(s) :

Mr. Huzefa A. Ahmadi, Sr. Adv.  
Mr. Apoorv Shukla, AOR  
Mr. Ajinkya Jaibhave, Adv.  
Ms. Anusha Pradhan, Adv.  
Ms. Prabhleen A. Shukla, Adv.  
Mr. Ayush Acharjee, Adv.

For Respondent(s) : Ms. Ankita Chaudhary, AOR  
Mr. Mohit Negi, AOR

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

1. Leave granted.
2. The appeal is allowed in terms of the signed order, which is placed on the file.
3. Pending application(s), if any, shall stand disposed of.

(D. NAVEEN)  
COURT MASTER (SH)

(NIDHI MATHUR)  
COURT MASTER (NSH)