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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
J.K. MAHESHWARI; J., ATUL S. CHANDURKAR; J.
SLP (C) NO.8991 OF 2025; April 24, 2026
VINAY RAGHUNATH DESHMUKH *versus* NATWARLAL SHAMJI GADA RESPONDENTS AND ANOTHER

Code of Civil Procedure, 1908 — Order VI Rule 17 — Amendment of Plaint — Bonafide Need of Landlord — Death of Landlord during Appeal — Power of Court to examine merits at the stage of amendment — Held: Whether an amendment should be allowed is not dependent on whether the case proposed to be set up will eventually succeed at the trial - While determining the permissibility of an amendment, the Court cannot go into the merits/demerits of the case - The factual truth of the subsequent pleadings is a matter to be considered on the merits of the claim and not at the stage of amendment. *[Paras 15-18]*

Constitution of India — Article 227 — Supervisory Jurisdiction of High Court — Interference with discretionary order of amendment — Held: In the exercise of its jurisdiction under Article 227, the High Court does not act as an appellate court or tribunal - It is not open to the High Court to review or reassess the evidence or material upon which the inferior court or tribunal passed the order - The supervisory jurisdiction is strictly confined to seeing whether an inferior court or tribunal has proceeded within the parameters of its jurisdiction - The High Court transgresses its limitations if it enters upon the merits of the case set up in the amendment. *[Paras 15, 16]*

Rent Control and Eviction — Bonafide Requirement — Subsequent Events — Death of Landlord — Held: The proposition that on the death of the original landlord, the bonafide need comes to an end and the legal heirs cannot seek eviction on the basis of their need, cannot have a blanket application - It depends on the facts and circumstances of each case. While rights are generally adjudicated as they existed at the commencement of the lis, courts are not precluded from taking cautious cognisance of subsequent developments to mould relief in accordance with law and current realities. *[Para 17]*

Code of Civil Procedure, 1908 — Order XLI Rule 25 — Power of Appellate Court to frame issues and refer them for trial — Held: Even if the Trial Court did not omit to frame or try the issue originally, the Appellate Court can always exercise power under Order XLI Rule 25 to frame an issue to determine any question of fact which appears essential to the right decision of the suit upon the merits based on subsequent events (such as the amendment of the plaint). *[Relied on Raj Kumar Bhatia Vs. Subhash Chander Bhatia, 2017 INSC 1240; Sadhna Lodh v. National Insurance Company, (2003) 3 SCC 524; Pasupuleti Venkateswarlu Vs. The Motor & General Traders, 1975 INSC 75; Para 18]*

For Petitioner(s): Mr. Aniruddha Joshi, Sr. Adv. Mr. Shashibhushan P. Adgaonkar, AOR Mr. Sharian Mukherji, Adv. Mr. Anoop Raj, Adv. Mr. Chirag Zanwar, Adv. Mr. Shailendra Mishra, Adv.
For Respondent(s): Mr. Ravindra Kumar Raizada, Sr. Adv. Mr. Jikesh Shah, Adv. Mr. Dipen Furia, Adv. Mr. Arjun D Singh, Adv. Ms. Leena Jayesh Shah, AOR Mr. J. Prasad, Adv.

J U D G M E N T

ATUL S. CHANDURKAR, J.

1. I.A. No.102914 of 2025 is allowed. Names of respondent Nos.3 and 4 are deleted from the array of parties.

2. Leave granted.

3. The question that arises for consideration in this civil appeal is whether the Court can examine the merits/demerits of the case while considering the prayer for grant of leave to amend the plaint. Consequentially, can the amendment of the plaint sought by the legal heirs of the landlord be refused on the ground that after the death of the landlord, the claim for eviction of the tenant on the ground of bonafide need no longer survives.

4. The father of the appellant – Raghunath Gopal Deshmukh was the owner of a shop situated on the ground floor ad-measuring about 188 square feet that was let out to the father of the respondents as a monthly tenant. The landlord on 28.11.2005 filed a suit for eviction of the tenants *inter alia,* that the tenants were in arrears of rent, they had carried out alterations of permanent nature, there was bonafide need of the landlord and his family members as regards the tenanted premises and that the tenants had sublet the premises to a sub-tenant. In paragraph 4 of the plaint, it was pleaded as under: -

"4. The Plaintiff states that, the abovementioned shop i.e. shop no.2, is required to the Plaintiff, for the bonafide use, occupation and enjoyment for himself and their family members……."

5. The respondents filed their written statement and opposed the suit for eviction. They denied the entire case as sought to be made out by the landlord. In response to the averments as regards bonafide need of the suit premises, it was pleaded in paragraph 3 as under: -

"3. With reference to para 4 of the Plaint, these Defendants emphatically and in toto deny that the Plaintiff reasonably and bonafide require the suit premises for himself and his family members as alleged……...The son of the Plaintiff is employed with a multi-national company and drawing handsome salary from the company……"

6. The Trial Court after considering the pleadings of the parties framed various issues. Issue No.3 with regard to the claim for bonafide need was framed by the Trial Court which reads as under: -

"3. Whether the plaintiff proves that the suit premises are reasonably and bonafide required by him for occupation by himself or by any person for whose benefit the premises are held?"

7. The landlord examined himself while the tenants examined one witness. The Trial Court, after consideration of the entire material on record, came to the conclusion that though the landlord wanted to start business of a general store, he had not decided the exact nature of business that he intended to start. This, according to the Trial Court, created a doubt about the intentions of the landlord. It, therefore, recorded a finding that the landlord had failed to prove his bonafide need. The other issues as framed were also answered against the landlord and consequently, on 29.11.2016 the Trial Court dismissed the suit for eviction.

8. The landlord being aggrieved by the aforesaid judgment preferred an appeal challenging the decree. During pendency of the appeal, the landlord expired on 24.07.2022. Consequently, the legal heirs got themselves impleaded in the appeal. After such impleadment, the appellant as a legal heir of the landlord filed an application seeking leave to amend the plaint. In the said application he referred to the averments made in paragraph 4 of the plaint that originally the landlord had pleaded the bonafide need for himself and his family members. As per the proposed amendment, it was stated that the appellant's wife was an advocate and was operating her office from a 100 square feet block that was situated behind the said building. As a result, it was stated that she was having less practice. She intended to practise from the suit premises as it was facing the main road. It was further stated that the appellant's son had completed his education and

intended to start medical practise. On this basis, the need of the legal heirs was sought to be pleaded.

9. The application for amendment was opposed by the respondents. In paragraph 5 of the said reply, it was admitted that in the suit, the landlord had pleaded that the suit premises was required for himself and his family members. It was, however, stated that subsequently the need of the family members was given up. It was further stated that the legal heirs of the original landlord could not put forward their bonafide need by amending the plaint.

By filing a rejoinder, the appellant denied that the claim of the original landlord was restricted only with regard to his bonafide need. It was reiterated that the family was in need of the suit premises.

10. The Appellate Bench of the Small Causes Court[1] considered the application for amendment of the plaint. It noted that when the suit was initially filed, the bonafide requirement of the landlord, his son and wife had been pleaded. It held that by virtue of the amendment as sought, no adverse plea was being introduced nor was any admission made earlier being withdrawn. With a view to avoid multiplicity of proceedings and to decide all the questions arising, the Appellate Bench held the amendment to be necessary. It, accordingly, permitted the amendment subject to payment of costs of ₹15,000/-. It further directed that after the plaint was amended, the issue of bonafide requirement be referred to the Trial Court and granted liberty to the respondents to amend the written statement. Permission was also granted to both parties to adduce evidence in this regard.

11. The tenants, being aggrieved by the order passed by the Appellate Bench permitting amendment to the plaint challenged the same by filing a writ petition under Article 227 of the Constitution of India before the Bombay High Court[2]. A learned Single Judge after hearing the parties held that the original landlord had not pleaded that his son, daughter-inlaw or grandson also needed the premises for their use. He had admitted in his cross-examination that his son and daughterin-law did not require the premises. Allowing the amendment as sought by the legal heirs would, therefore, amount to introducing a totally new case that was inconsistent with what was pleaded by the original landlord. It was, thus, held that with the death of the original landlord, his need had eclipsed and the need that was now sought to be raised by amending the plaint was contradictory to the evidence led by the landlord. It was further held that the legal heirs of the original landlord could file a fresh suit for eviction based on their claim for bonafide requirement. Accordingly, by the judgment dated 07.08.2024, the High Court allowed the writ petition and set aside the order passed by the Appellate Bench allowing the amendment application. Liberty was granted to the legal heirs to file a fresh suit on the basis of the cause of action that was sought to be incorporated by way of amendment. Being aggrieved, the son of the original landlord has come up in appeal.

12. Mr. Aniruddha Joshi, learned Senior Advocate for the appellant submitted that the High Court erred in setting aside the order passed by the Appellate Bench allowing the amendment to the plaint by going into the merits of the case. In the suit as originally filed, the landlord had pleaded about the requirement for himself and his family members. Without noticing these pleadings, the High Court proceeded on the premise that what was pleaded in the plaint was only the bonafide requirement of the original landlord. Even if it was assumed that the original landlord did not depose about the bonafide need of his

[1] For short, 'the Appellate Bench'

[2] For short, "the High Court"

family members, that would not preclude the legal heirs of the original landlord from bringing on record subsequent events to substantiate their bonafide requirement. The Appellate Bench was justified in holding that if the legal heirs of the original landlord could file a fresh suit for eviction, the plaint could be permitted to be amended in view of subsequent events. Moreover, liberty was granted to the tenants to oppose the claim made by the legal heirs on merits. Therefore, no prejudice, whatsoever, was caused to the tenants even if the amendment was allowed. It was, thus, submitted that the Appellate Bench having exercised discretion in favour of the legal heirs of the original landlord and having permitted the plaint to be amended, the High Court erred in interfering with such discretion under Article 227 of the Constitution of India. It was, thus, urged that the impugned judgment was liable to be set aside and the order passed by the Appellate Bench ought to be upheld.

13. On the other hand, Mr. Ravindra Kumar Raizada, learned Senior Advocate for the respondents supported the impugned judgment. According to him, the High Court correctly found that the original landlord in his deposition had clearly stated that he alone had bonafide requirement of the suit premises. He did not depose about the need of his son and daughter-inlaw. After the death of the original landlord, the suit could not be continued. It was rightly found that if at all the legal heirs of the original landlord had any bonafide requirement, they could initiate fresh proceedings by filing another suit. Such liberty had been granted to them by the High Court. The impugned judgment having taken into consideration the legal position as prevailing, there was no need to interfere with the impugned judgment. No prejudice, whatsoever, was caused to the legal heirs of the original landlord. It was, thus, submitted that the impugned judgment did not warrant any interference and the appeal was liable to be dismissed.

14. Having heard the learned counsel for the parties and having perused the material on record, we are of the considered view that the High Court, in exercise of jurisdiction under Article 227 of the Constitution of India, was not justified in interfering with the discretion exercised by the Appellate Bench allowing the amendment to the plaint.

15. Undisputedly, the Appellate Bench entertained the application seeking amendment to the plaint moved by the legal heirs of the landlord in the light of the fact that the landlord had expired during pendency of the appeal. It specifically noted in paragraph 16 of its order that the landlord had filed the suit on account of bonafide requirement of himself and his family members. It further observed that the paramount need as pleaded was of the landlord. After finding that the legal heirs did not seek to introduce any plea that was adverse to that of the landlord, the amendment was allowed. Liberty was granted to the tenants to consequentially amend the written statement.

The finding recorded by the Appellate Court that in the suit, the landlord had pleaded that the suit premises were required reasonably and bonafidely for occupation by himself and his family members is clear on perusal of paragraph 4 of the plaint. Issue No.3 was also framed by the Trial Court in the light of such pleadings. The tenants were aware of this fact and in paragraph 5 of their reply to the amendment application, they too referred to this aspect. Despite this position on record, the High Court proceeded on the premise that in the plaint, it was only the need of the landlord that was pleaded and not the need of his family members. Observations in this regard can be found in paragraphs 23 and 25 of the impugned order. The same are found to be factually incorrect. It may be true that in his deposition, the landlord deposed about only his requirement and not that of his family members. But that is a matter to be considered on merits of the claim and not while determining the permissibility of the amendment.

It is, thus, clear that the High Court misdirected itself by failing to notice the pleadings in paragraph 4 of the plaint that have been reproduced hereinabove. This has resulted in vitiating the impugned order.

16. Yet another aspect that goes to the root of the matter is that the tenants challenged the order passed by the Appellate Bench permitting the amendment by filing a writ petition under Article 227 of the Constitution of India. It is well settled that in exercise of such jurisdiction, it would not be open for the High Court to review or reassess the material that was taken into consideration by the Court while passing the impugned order. In this regard we may usefully refer to the decision in **Raj Kumar Bhatia Vs. Subhash Chander Bhatia**[3], wherein a three Judge Bench of this Court held as under:

"11 ……The High Court has in the exercise of its jurisdiction under Article 227 of the Constitution entered upon the merits of the case which was sought to be set up by the appellant in the amendment. This is impermissible. Whether an amendment should be allowed is not dependent on whether the case which is proposed to be set up will eventually succeed at the trial. In enquiring into merits, the High Court transgressed the limitations on its jurisdiction under Article 227. In **Sadhna Lodh v National Insurance Company**[4], this Court has held that the supervisory jurisdiction conferred on the High Court under Article 227 is confined only to see whether an inferior court or tribunal has proceeded within the parameters of its jurisdiction. In the exercise of its jurisdiction under Article 227, the High Court does not act as an appellate court or tribunal and it is not open to it to review or reassess the evidence upon which the inferior court or tribunal has passed an order. The Trial Court had in the considered exercise of its jurisdiction allowed the amendment of the written statement under Order 6 Rule 17 of the CPC. There was no reason for the High Court to interfere under Article 227."

Thus, the discretion exercised by the Appellate Bench while allowing the amendment was not liable to be interfered with in exercise of the Article 227 of the Constitution of India, especially when there was no error of jurisdiction nor a statutory bar for permitting the plaint to be amended based on subsequent events.

17. Coming to the reasoning adopted by the High Court that on the death of the original landlord, his bonafide need would come to an end and that his/her legal heir would not be able to seek eviction on the basis of their bonafide need, suffice it to observe that this proposition cannot have a blanket application. The same would depend on the facts and circumstances of each case. No doubt, the principle that the rights of the parties have to be adjudicated keeping in mind the rights existing at the commencement of the lis. Where however subsequent events having a material bearing on the entitlement of the parties to relief occur, the Court is not precluded from taking cognizance of the same and moulding the relief in accordance with law. In this regard, we may refer to the decision of this Court in **Pasupuleti Venkateswarlu Vs. The Motor & General Traders**[5] wherein it has been held as under:

"First about the jurisdiction and propriety vis a vis circumstances which come into being subsequent to the commencement of the proceedings. It is basic to our processual jurisprudence that the right to relief must be judged to exist as on the date a suitor institutes the legal proceeding. Equally clear is the principle that procedure is the handmaid and not the mistress of the judicial process. If a fact, arising after the lis has come to court and has a fundamental impact on the right to relief for the manner of moulding it, is brought diligently to the notice of the tribunal, it cannot blink at it or be blind to events which stultify

[3] 2017 INSC 1240
[4] (2003) 3 SCC 524
[5] 1975 INSC 75

or render inept the decrotal remedy. Equity justifies bending the rules of procedure, where no specific provision or fairplay is violated, with a view to promote substantial justice--subject, of course, to the absence of other disentitling factors or just circumstances. Nor can we contemplate any limitation on this power to take note of updated facts to confine it to the trial Court. If the litigation pends, the power exists, absent other special circumstances repelling resort to that course in law or justice.

We affirm the proposition that for making the right or remedy claimed by the party just and meaningful as also legally and factually in accord with the current realities, the court can, and in many cases must, take cautious cognisance of events and developments subsequent to the institution of the proceeding provided the rules of fairness to both sides are scrupulously obeyed."

18. Yet another factor that impelled the High Court to interfere was the direction of the Appellate Bench in remanding the issue of bonafide requirement and hardship to the Trial Court for recording evidence and returning a finding in that regard. According to the High Court, the Trial Court had neither omitted to frame such issue nor had failed to try the same when it decided the suit. Hence, exercise of power by the Appellate Bench under provisions of Order XLI Rule 25 of the Code of Civil Procedure, 1908[6] was uncalled for. While it is true that the Trial Court did not omit to frame or try the issue with regard to bonafide requirement of the landlord, the Appellate Court could always exercise power under Order XLI Rule 25 of the Code and frame an issue so as to "determine any question of fact which appears to the Appellate Court essential to the right decision of the suit upon the merits." Such power can be exercised by the Appellate Court if it appears to it essential to the right decision of the suit on merits. It has to be exercised in the facts and circumstances of the case when found necessary by the Appellate Court for arriving at a right decision in the suit.

In the facts of the present case, we do not find that the Appellate Bench committed an error when it exercised its jurisdiction under Order XLI Rule 25 of the Code and referred the issue of bonafide requirement to the Trial Court pursuant to the plaint being amended. Liberty had been granted to the defendants to amend the written statement and thereafter to both parties to lead evidence. Hence, even on this count the order of the Appellate Bench was not liable to be interfered with.

19. In the light of the discussion hereinabove, we set aside the judgment dated 07.08.2024 passed by the High Court in Writ Petition No.5976 of 2024. Consequently, the order passed below Exhibit 38 by the Appellate Bench on 05.04.2024 stands restored. The directions issued in the said order shall now operate. The parties shall appear before the Trial Court on 08.06.2026. The Trial Court is free to thereafter decide the schedule of further proceedings keeping in mind the directions issued by the Appellate Bench in its order dated 05.04.2024.

It is clarified that this Court has not examined the merits of the claim of either party and the proceedings be decided on their own merits in accordance with law.

20. The Civil Appeal is allowed in aforesaid terms leaving the parties to bear their own costs.

[6] For short, "the Code"