2026 INSC 925

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. …… OF 2026
[Arising out of SLP (C) NO.14435 OF 2024]

MADHAV VIDARBHA ESTATE PVT. LTD. …APPELLANT

VERSUS

PRAHARSH CORPORATION PVT. LTD. & ORS …RESPONDENTS

With

CIVIL APPEAL NO. …… OF 2026
[Arising out of SLP (C) NO.14885 OF 2024]

MADHAV VIDARBHA ESTATE PVT. LTD. …APPELLANT

VERSUS

SHRI SAWAN NANDKUMAR BHATEWARA & ORS. …RESPONDENTS

J U D G M E N T

DIPANKAR DATTA, J.

1. Leave granted.

2. Since we intend to deal with the present appeals only on two substantial questions of law that emerge for our consideration, the factual matrix is set out only to the extent it is necessary to do so.

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Date: 2026.08.31 14:10:41 IST
Reason:

3. Both the appeals, at the instance of Madhav Vidarbha Estate Private Limited[1], impugn a common judgment and order dated 8th May, 2024 of the High Court of Judicature at Bombay, Nagpur Bench[2], passed in its revisional jurisdiction[3]. Impugned in the revisional applications before the High Court were orders passed by the 18th Joint Civil Judge, Senior Division, Nagpur[4] dismissing the applications under Order VII, Rule 11 of the Code of Civil Procedure, 1908[5] filed by Praharsh Corporation Private Limited[6] and Mr. Sawan Nandkumar Bhatewara[7], seeking rejection of the plaint in Special Civil Suit No. 408 of 2017[8].

4. International Asset Reconstruction Company Private Limited[9] along with Madhav Vidarbha instituted the relevant suit against Praharsh, Riddhi Investment and Properties Private Limited[10] and Sawan *inter alia* seeking the following relief: (I) sale deed dated 16th January, 2015 executed between Praharsh and court Nazir be declared null, void, and not binding on the plaintiffs; (Ia) sale deed dated 3rd March, 2017 between Praharsh and Sawan be declared null, void, and not binding upon the plaintiffs; (II) declaration that Praharsh is in illegal possession of the suit property; (III) direction against Praharsh and Riddhi to deliver possession of the suit property; (IIIa) declaration that

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[1] Madhav Vidarbha
[2] High Court
[3] in Civil Revision Application No.92/2019 and Civil Revision Application No.22/2021
[4] Trial Court
[5] CPC
[6] Praharsh
[7] Sawan
[8] relevant suit
[9] IARCPL
[10] Riddhi

Sawan is in illegal possession of the suit property, having obtained it fraudulently; (IV) in the alternative, a direction against Praharsh and Riddhi to pay Rs. 5,06,00,000/- to IARCPL along with 24% interest; (V) Damages and compensation of Rs. 20,00,00,000/- with 24% interest to the plaintiffs from the date of filing of the suit.

5. Plaintiffs claimed that the cause of action arose in 2016 when Praharsh obtained possession of the suit property fraudulently.

6. Soon after the relevant suit was instituted, the applications seeking rejection of plaint came to be filed. The primary ground averred in the applications was that the plaint did not disclose a cause of action and that it was barred by law, viz. by section 11 and section 47, CPC.

7. The Trial Court, after hearing counsel for parties, rejected both the applications under Order VII Rule 11, CPC by separate reasoned orders. The Trial Court found that the grounds raised by Sawan and Praharsh in their respective applications were not sufficient to reject the plaint at the threshold. Their reliance on the documents, allegedly suppressed by the plaintiffs, could not be relied upon; only the plaint and documents thereto must be examined to consider the claim under Order VII, Rule 11, CPC; the suit was not barred by section 47 of the CPC; the issue of *res judicata* must be decided at the trial; and, the issue of limitation must also be decided at the trial.

8. Aggrieved thereby, Praharsh and Sawan filed revision applications under section 115, CPC before the High Court, which culminated in the impugned order being passed.

9. The High Court, by its judgment spread over 117 (one hundred seventeen) pages and containing almost equal number of paragraphs, allowed the revision applications resulting in rejection of the plaint *qua* Praharsh and Sawan.

10. We have heard Dr. Abhishek Manu Singhvi and Mr. Pravin Samdani, learned senior advocates for Madhav Vidarbha and Mr. Ranjit Kumar and Mr. Jaydeep Gupta, learned senior advocates for Praharsh and Sawan, respectively.

11. Reading of the impugned judgment, in between the lines, would surprisingly reveal complete absence of any discussion on one question in particular: where and/or how did the Trial Court err while rejecting the applications under Order VII Rule 11, CPC? This appears to be a unique case where not a single sentence in the 118 (one hundred eighteen) paragraphs of the judgment is devoted to the Trial Court's commission of an error justifying interference in exercise of revisional jurisdiction. Responding to our query, Mr. Kumar and Mr. Gupta did not join issue.

12. Section 115, CPC provides for revision against an order of a subordinate court against which no appeal lies. Exercise of such revisional jurisdiction, as has been discussed *ad nauseam* by this Court, must be confined to the narrow compass of section 115. The conditions under which a revisional jurisdiction of the High Court may be invoked against an order of a subordinate Court are: (a) exercise of jurisdiction not vested by law; or (b) failure to exercise jurisdiction

so vested; or (c) exercise of jurisdiction illegally or with material irregularity.

13. The difference between an appeal and a revision is well settled. Nonetheless, considering that the issue is a recurring one, we examine the law laid by this Court by referring to only one precedent. In ***Shiv Shakti Coop. Housing Society v. Swaraj Developers***[11], speaking through Arijit Pasayat, J., this Court observed as under:

> **13.** First aspect that has to be considered is the respective scope of appeal and revision. It is fairly a well-settled position in law that the right of appeal is a substantive right. But there is no such substantive right in making an application under Section 115. Though great emphasis was laid on certain observations in *Shankar Ramchandra Abhyankar* v. *Krishnaji Dattatreya Bapat*[12] to contend that appeal and revision stand on the same pedestal, it is difficult to accept the proposition. The observations in the said case are being read out of context. What was held in that case related to the exercise of power of a higher court, and in that context the nature of consideration in appeal and revision was referred to. It was never held in that case that appeal is equated to a revision.
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> **14.** Section 115 is essentially a source of power for the High Court to supervise the subordinate courts. It does not in any way confer a right on a litigant aggrieved by any order of the subordinate court to approach the High Court for relief. The scope for making a revision under Section 115 is not linked with a substantive right.
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> **15.** Language of Sections 96 and 100 of the Code which deal with appeals can be compared with Section 115 of the Code. While the former two provisions specifically provide for right of appeal, the same is not the position vis-à-vis Section 115. It does not speak of an application being made by a person aggrieved by an order of subordinate court. As noted above, it is a source of power of the High Court to have effective control on the functioning of the subordinate courts by exercising supervisory power.
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> **...**
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> **17.** Right of appeal is statutory. Right of appeal inhered in no one. When conferred by statute it becomes a vested right. In this regard there is essential distinction between right of appeal and right of suit. Where there is inherent right in every person to file a suit and for its maintainability it requires no authority of law, appeal requires so. As was observed in *State of Kerala* v. *K.M. Charia Abdulla and Co.*[13] the distinction between right of appeal and revision is based on differences implicit in the two expressions. An appeal is continuation of the proceedings; in effect the entire proceedings are before the Appellate Authority and it has the power to

[11] (2003) 6 SCC 659
[12] (1969) 2 SCC 74
[13] AIR 1965 SC 1585

review the evidence subject to statutory limitations prescribed. But in the case of revision, whatever powers the revisional authority may or may not have, it has no power to review the evidence, unless the statute expressly confers on it that power. It was noted by the four Judge Bench in *Hari Shankar* v. *Rao Girdhari Lal Chowdhury*[14] that the distinction between an appeal and a revision is a real one. A right of appeal carries with it a right of rehearing on law as well as fact, unless the statute conferring the right of appeal limits the rehearing in some way, as has been done in second appeals arising under the Code. The power of hearing revision is generally given to a superior court so that it may satisfy itself that a particular case has been decided according to law. Reference was made to Section 115 of the Code to hold that the High Court's powers under the said provision are limited to certain particular categories of cases. The right there is confined to jurisdiction and jurisdiction alone.

(emphasis supplied)

14. We may walk down memory lane for discerning what was the position on the ground 11 (eleven) years after achieving independence. In the context of rising litigation due to the routine manner of pursuing of revisional applications before the high courts, the First Law Commission made significant observations. The 14th report of the Commission was submitted by Mr. M.C. Setalvad (the then Attorney-General of India) on 16th September, 1958, while working with several other illustrious members such as M. C. Chagla, CJ. (the then Chief Justice of the Bombay High Court), K. N. Wanchoo, CJ. (the then Chief Justice of the Rajasthan High Court), G. N. Das, J. (retired Judge of the Calcutta High Court), P. Satyanarayana Rao, J. (retired Judge of the Madras High Court), Dr. N. C. Sen Gupta (advocate, Calcutta), Mr. V. K. T. Chari (the then Advocate-General, Madras), Mr. Narasa Raju (the then Advocate-General, Andhra), Mr. S. M. Sikri (the then

[14] AIR 1963 SC 698

Advocate-General, Punjab), Mr. G. S. Pathak (then advocate, Allahabad), and Mr. G. N. Joshi (advocate, Bombay).

15. The members brought with them considerable experience at the Bar and a deep familiarity with the nuances of legal practice. The observations made in the report, about 7 (seven) decades back, are not so different from the realities of litigation faced by the Courts today. The report was prepared after collecting empirical data by visiting all the high courts across the country and speaking with several individuals including the Chief Justices of those high courts and members of the Bar.

16. On civil revision, the report noted:

> **9.** Since a large number of these revision applications are filed against interlocutory orders we invited opinion through our Questionnaire on a proposal that the right of revision against interlocutory orders should be drastically curtailed and that revision should be restricted only to cases falling within clause (a) of Section 115 of the Civil Procedure Code and not be permitted in cases falling under clauses (b) and (c) of that section.
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> Although there was general agreement that many of these applications are lacking in substance and are filed with the sole object of delaying the proceedings, the proposal made by us met with general opposition. Dealing with the question of curtailment of the right of revision in respect of interlocutory orders, an experienced Chief Justice stated that 'it is not unoften that a very wrong order is made. If it be made impossible to challenge the order immediately and have it set aside and if the error is left to be corrected in the appeal from the final order if and when such an appeal is taken, the intermediate proceedings will necessarily all be on an erroneous basis and it can hardly be just to compel the parties to submit to the order without any change of instant redress.'
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> **10.** It was alternatively proposed that in such cases, in lieu of a revision to the High Court, the aggrieved party might be given a right of appeal to a lower appellate court in cases in which the orders made were such as would lead to the whole proceedings being conducted on an erroneous basis or where the order was one which went to the root of the proceedings. This, however, appeared merely to substitute one type of proceeding for another leaving the right of revision to the High Court against the order in appeal still open to the party concerned.

11. It was pressed upon us that 'provided a superior court is discerning and firm, there ought not to be any undue interruptions of the proceedings of the subordinate courts, simply because a right of revision is provided in the law…. The evil of a voluminous body of Rules against interlocutory orders with all the undesirable consequences of such Rules, which has undoubtedly grown is to my mind not due to any deficiency or superfluity in the law but due entirely to laxity in its administration'. This is no doubt true and, as in the case of second appeals, we are driven to the conclusion that enough care is not exercised in granting rule *nisi* and issuing stay orders at the time of admission of these revision applications. Nor have the High Courts, except a few, accepted as they well might have, the recommendation of the Rankin Committee[15], of which we approve, for obtaining from the subordinate courts a periodical return of cases so that they may be expeditiously disposed of. The real remedy lies, in our opinion, in the superior courts keeping in view the following essential rules in dealing with these revisions:

> (1) That the rule *nisi* should not be issued except upon a very careful and strict scrutiny;
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> (2) That where a stay is not granted, the records of the subordinate courts should not be called for and when the records are necessary, only copies of the records should be required to be produced; and
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> (3) That whenever a rule *nisi* is granted and a stay order issued, every effort should be made to dispose of the revision application within two or three months.

12. On the whole and after careful consideration of the views and information placed before us, we are of the opinion, that the fact that a large percentage of these revision applications, particularly against interlocutory orders, are lacking in substance and are eventually dismissed is not a ground for curtailing the powers of the High Court in revision generally.

13. But, nevertheless, an amendment of the law is necessary in order to remedy the grave evil of delays arising out of revision applications in interlocutory orders. It appears to us that it would be unsafe to expect an improvement in the situation merely by reason of the superior courts observing the rules mentioned above. We are of the view that it would strengthen the hands of the revising courts and constantly remind them of the danger of entertaining and granting stay in revision applications against interlocutory orders, if provision were made in Section 115 of the Code that nothing therein shall apply to interlocutory orders from which no appeal lies, unless the order is likely to occasion a failure of justice or cause an irreparable injury.

14. It is, we think, also necessary to enact provisions similar to those in Order XLI, Rule 5, Code of Civil Procedure limiting the powers of the Court to grant stays in revision applications.

…

[15]Report of the Civil Justice Committee, p. 281, para 4.

17. The High Courts are also not agreed on what amounts to an illegality or material irregularity within the meaning of clause (c) of the section. What is not an illegality or a material irregularity within the meaning of the section was decided by the Privy Council in *Amir Hassan Khan v. Sheo Baksh Singh*[16], where the Judicial Committee laid down that where a Court has jurisdiction to decide a question before it and, in fact, decides the question, it cannot be regarded as acting in exercise of its jurisdiction illegally or with material irregularity, merely because its decision in erroneous. This was further emphasized by the Judicial Committee in *Balakrishna Udayar v. Vasudeva Ayyar*[17], in which it was laid down that the section applies to jurisdiction alone, to the irregular exercise or non-exercise of it or the illegal assumption of it and is not directed against erroneous conclusions of law or fact in which the question of jurisdiction is not involved. The High Courts have, however, placed varying interpretations upon the principles laid down by the Privy Council, so that, there is a mass of conflicting judicial opinion as to what constitutes illegality or material irregularity within the meaning of the section.

18. The difficulties in the interpretation of the section and the need to resolve the conflict of decisions which, in the opinion of the Civil Justice Committee, had given rise to 'much bad law' was felt by that Committee and it made certain recommendations for the amendment of the law. Those amendments related not only to the clarification of the language of Section 115 but also to the curtailment of the High Courts' revisional powers. As we are making recommendations of our own in regard to the clarification of the language of Section 115, it is unnecessary to enter into the history of the legislation which was introduced to implement the recommendations of the Civil Justice Committee and which was eventually not enacted.

19. Though we do not feel justified in recommending any general curtailment in the powers of revision conferred by Section 115, we are of the view that the difficulties created by conflicting judicial views in the interpretation of the section need to be removed. We, therefore, make the following recommendations indicating the lines on which Section 115 should, in our opinion, be amended:

(1) The expression 'case decided' in the section should be clarified so as to include within it an interlocutory order including an order deciding an issue from which no appeal lies.

(2) Provision should, however, be made in the section, limiting the power of revision to such interlocutory orders which, if decided in favour of the petitioner would be sufficient for the final disposal of the suit or proceeding; or in which the order is likely to occasion a failure of justice or cause an irreparable injury.

(3) The words 'in which no appeal lies thereto' in the first part of the section should be altered so as to make untenable the view of the Rajasthan High Court that no revision will lie if the order could be brought before the High Court eventually in second appeal or be made the subject-matter of a

[16](1884) 11 IA 237
[17]AIR 1917 PC 71

ground of appeal to the High Court under Section 105 of the Civil Procedure Code. Our intention is that the right of moving the High Court in revision should be denied only in cases where an appeal lies either to the High Court or to the District Court from the order in question.

(emphasis ours)

17. One can only imagine the mounting pendency that must have prompted the Law Commission to issue such guidelines. Little less than 7 (seven) decades later, the situation has only turned from bad to worse.

18. It is also for this reason that the legislature, by the Civil Procedure Code (Amendment) Act, 1999, curtailed the scope of interference in revisional jurisdiction. Routine resort to revision remains the reproach that section 8 of the Commercial Courts Act, 2015, too, resolves to remedy.

19. While hearing an application for revision, particularly against an order rejecting a plaint, the high courts must be cautious and interfere only when the pleadings in the plaint palpably attract *inter alia* clauses (a) or (d). We are conscious of the caution sounded by Hon'ble Krishna Iyer, J. in paragraph 5[18] of the decision in ***T. Arivandandam v. T.V. Satyapal***[19]. However, even this decision emphasises that the ground in Rule 11 has to be fulfilled.

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[18] … The learned Munsif must remember that if on a meaningful — not formal — reading of the plaint it is manifestly vexatious, and meritless, in the sense of not disclosing a clear right to sue, he should exercise his power under Order 7, Rule 11 CPC taking care to see that the ground mentioned therein is fulfilled. And, if clever drafting has created the illusion of a cause of action, nip it in the bud at the first hearing by examining the party searchingly under Order 10, CPC. An activist Judge is the answer to irresponsible law suits. The trial courts would insist imperatively on examining the party at the first hearing so that bogus litigation can be shot down at the earliest stage. …

[19] (1977) 4 SCC 467

20. Turning to the case at hand, apart from the lack of finding with respect to error, if any, committed by the Trial Court, we also find that the High Court while considering the revision applications before it, donned the hat of the trial court. If the identity of the court were undisclosed, bare reading of the judgment would unmistakably and inevitably lead a reader to the conclusion that it is a judgment of the original court rejecting a plaint. The High Court, unfortunately, erred here too. It also erred by marching farther than the limited scope of inquiry necessitated at the stage of consideration of an application under Order VII Rule 11, CPC. Observations were made based on facts and documents, which did not form part of the plaint. Without entering the thickets of the matter, we notice material observations having been made by the High Court concerning the validity of documents for which the stage had yet to ripen. Trite it is, at the stage of considering an application under Order VII Rule 11, CPC, only the averments made in the plaint and documents annexed thereto must be considered. With a deep sense of anguish, we cannot but observe that the very fundamentals of consideration of an application under Order VII Rule 11, CPC seem not to have been present in the mind of the High Court in the present case.

21. On these considerations, we find the High Court to have faltered in illegally exercising its revisional jurisdiction, circumscribed by the conditions encapsulated in section 115, CPC.

22. Having held thus, it is time to move on to briefly touch upon one other aspect which is often neglected. It cannot go unnoticed that the High Court expended enormous judicial time in authoring a lengthy judgment, *albeit* on an unworthy issue. The same time could have well been devoted to a deserving *lis*. While setting aside of such judgment would mean that the entire effort stands wasted, what is more disquieting is that such misdirected effort does bring in its terrain more disservice than service to the institutional cause. The high courts ought to realise that prudent use of judicial time must remain the foremost institutional priority.

23. We also note, in this regard, that due caution must be exercised whilst granting stay of the trial. In the present case, while issuing notice on the applications for revision, the High Court *vide* its order dated 18th September, 2019 (not placed on record), granted stay of the trial. Subsequently, this Court too, continued the stay which has been operating till date. The matter before the Trial Court has been adjourned on 34 (thirty-four) occasions in view of the stay orders being operational. The initiation of trial, 9 (nine) years on, is yet to see the light of day; written statements are yet to be filed.

24. It is in this context that we deem it appropriate to make an observation that the routine practice of the high courts of granting a stay of trial while issuing notice in challenges to interlocutory orders has to be disapproved. Unless the high courts, on an examination deeper than *prima facie*, arrive at a finding that continuation of the trial would

seriously and irreparably prejudice the outcome of the revision or adversely affect the parties, stay of the trial ought to be eschewed.

25. However, having regard to the reasons assigned by us while dealing with the merits of the challenge to the impugned judgment and order, the same stand set aside and we allow the appeals. The relevant suit, thus, would revive on the file of the Trial Court.

26. In view of stay of the trial since the last 7 (seven) years, we grant liberty to the defendants to file their respective written statements, if not already filed, within 8 (eight) weeks from today. We request the Trial Court, subject to the docket of matters before it, to frame the issues within a further period of 6 (six) weeks of the written statement(s) being filed. Bearing in mind the dicta of this Court in ***High Court Bar Association Allahabad v. State of Uttar Pradesh***[20], we do not propose to set a timeline for conclusion of the trial; however, it would be eminently desirable for the Trial Court to endeavour to conclude the trial at the earliest without granting unnecessary adjournments. The parties have assured to cooperate with the Trial Court to facilitate an early decision.

27. Needless to observe, the Trial Court shall proceed with the trial uninfluenced by the observations made by us or by the High Court in the impugned judgment and order. All issues of fact and law are left open for the parties to agitate before the Trial Court.

[20] (2024) 6 SCC 267

28. The appeals are allowed on the aforesaid terms. Interim order, if any, stand vacated. Interim applications, if any, stand disposed of.

29. Parties shall, however, bear their own costs.

.....J.
(DIPANKAR DATTA)

.....J.
(SATISH CHANDRA SHARMA)

NEW DELHI;
AUGUST 19, 2026.