IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION (ST.) NO. 23914 OF 2023

1. Union of India
Ministry of Law & Justice & C.A.
Department of Legal Affairs
2. Dy. Salt Commissioner
3. Joint Secretary **..... APPLICANTS**
(orig. Defendants)

: VERSUS :

Maheshkumar Gordhandas Garodia **.... RESPONDENT**
(orig. Plaintiff)

Mr. Anil Singh, *Additional Solicitor General with Mr. Aditya Thakkar,Mr. D.P. Singh, Mr. Adarsh Vyas, Ms. Rama Gupta, Mr. Dhaval Shetia and Ms. Rupali Srivastav, for the Applicants.*

Mr. Aditya Bapat *with Mr. S.A.K. Najam-es-sani i/b. Maneksha & Sethna, for the Respondent.*

CORAM : SANDEEP V. MARNE, J.

JUDGMENT RESD. ON: 5 MARCH 2026.

JUDGMENT PRON. ON : 17 MARCH 2026.

JUDGMENT :

1) The Applicant-Union of India has invoked revisionary jurisdiction of this Court under Section 115 of the Civil Procedure Code, 1908 **(the Code)** for assailing order dated 11 November 2022 passed by

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the learned Judge, City Civil Court, Mumbai rejecting Notice of Motion No. 3788 of 2016. The Motion was filed by the Applicants seeking dismissal of the Suit on the ground that the same is rendered infructuous with a further direction for handing over possession of the suit land by the Plaintiffs.

2) The Plaintiff is lessees in respect of large tract of land admeasuring 251 acres and 21 gunthas within the limits of Village-Kanjur, in the then south Salsette Taluka of Bombay Suburban District bearing Survey Nos.13,14, 19, 20,21,22 and 23 which is designated as '*Plot No.(II) Arthur Salt Works*'. Plaintiffs are also lessees in respect of another piece of land admeasuring 249 acres and 10 gunthas bearing Survey No. 169 of Village-Kanjur, which is designated as '*Plot No. (III) Jenkins Salt Works*'. Both the lands of Arthur Salt Works and Jenkins Salt Works were leased out to the Plaintiffs for a period of 99 years commencing from 15 October 1917 for the purpose of manufacture of salt. Considering the limited controversy involved in the present Application, it is not necessary to narrate occurrence of various events after execution of the lease deeds. Suffice it to note that the leases in respect of both the lands came to be terminated by the Applicants vide Orders dated 2 November 2004.

3) Plaintiff instituted Suit No. 1173 of 2005 in this Court challenging the termination Orders dated 2 November 2004 and is seeking a declaration that the lease agreements are valid, subsisting and binding on the Applicants. The Suit came to be transferred to the City Civil Court

on account of change in pecuniary jurisdiction of High Court and was renumbered as Civil Suit No. 6256 of 2005. During pendency of the Suit, the tenure of the lease expired on 14 October 2016. Upon expiry of tenure of lease, the Applicants took out Notice of Motion No. 3788 of 2016 seeking dismissal of the Suit on the ground that the cause of action had come to an end and that the suit had become infructuous. The Motion was resisted by the Plaintiff by filing affidavit in reply. By order dated 11 November 2022, the City Civil Court has proceeded to dismiss Notice of Motion No. 3788 of 2016, which is subject matter of challenge in the present Revision Application.

4) I have heard Mr. Anil Singh, the learned Additional Solicitor General appearing for the Applicants. He submits that the whole cause of action for filing of the suit has come to an end on account of expiry of tenure of lease on 14 October 2016 and it is not necessary to adjudicate the issue of validity of order dated 2 November 2004 terminating the leases. He relies on judgment of the Apex Court in ***Shipping Corporation of India Ltd. Versus. Machado Brothers and others***[1] in support of his contention that a suit which is rendered infructuous on account of cause of action coming to an end need not be kept pending and can be dismissed by the Court by having recourse to powers under Section 151 of the Code. That the Trial Court has erred in not exercising powers under Section 151 of the Code for dismissal of the Suit and has unnecessarily kept the suit pending only for the purpose of ensuring that the interim order passed therein must continue. He relies on judgment of Division

1 2004 11 SCC 168

Bench of this Court in ***Maheshkumar Gordhandas Garodia Versus. The State of Maharashtra & Others*** [2] in support of his contention that the Division Bench has taken note of the fact that there is no prayer in the present suit for renewal of lease and that the tenure of lease has come to an end. He also relies on judgment of this Court in ***Vikas Kamalakar Walawalkar Versus. Deputy Salt Commissioner and another*** [3] as well as, order passed by the Appeal Court in support of his contention that similar suit filed by another lessee in respect of adjoining salt lands has been dismissed by this Court. Mr. Singh would accordingly pray for setting aside the impugned order and for dismissal of the Suit.

5) The Revision Application is opposed by Mr. Bapat, the learned counsel appearing for the Respondent. He submits that the City Civil Court has rightly dismissed the Notice of Motion filed by the Applicants as there is no provision in the Code for dismissal of the Suit on account of cause of action coming to an end. He submits that the Code provides for specific remedies for dismissal of the suit such as power to reject the plaint under Order VII Rule 11 of the Code or power to dismiss/ pronounce the judgment on admissions. That it is well settled position that powers under Section 151 of the Code cannot be invoked when other alternate remedies are available. Similarly, because the Suit cannot be dismissed in exercise of other alternate remedies, power under Section 151 of the Code cannot be invoked to do something which otherwise is undoable in exercise of other alternate remedies. In support, he relies on judgment of the Apex Court in ***National Institute of Mental Health and***

2 Writ Petition 5362 of 2024 decided on 16 February 2026
3 Suit No. 1172 of 2005 decided on 8 May 2024

Neuro Sciences Versus. C. Parameshwar [4] and ***My Palace Mutually Aided Co-operative Society Versus. B. Mahesh and others*** [5].

6) Mr. Bapat further submits that the cause of action in the Suit has not come to an end. That Plaintiff's claim for renewal of lease depends on the issue of validity of termination of lease. Plaintiff has already applied for amendment of the Plaint to incorporate a prayer for renewal of the lease. He therefore submits that the cause of action in the suit survives and the Court needs to answer the issue as to whether the lessees have been validly terminated or not. He submits that no interference is warranted in the impugned order and would accordingly pray for dismissal of the Application.

7) Rival contentions of the parties now fall for my consideration.

8) The Suit was initially instituted in this Court by Mr. Gordhandas S. Garodia and Maheskumar G. Garodia seeking following prayers:

> [a] That this Hon'ble Court be pleased to declare that the orders dated 2nd November, 2004 being Exhibit "Y" & "Z" terminating the Lease qua the Plaintiffs is illegal, null and void ab-initio and for a declaration that Agreement dated 16th February, 1922 is valid, subsisting and binding on the Defendant.
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> [b] Pending the hearing and final disposal of the suit the Defendants or any one from the office of the Defendants be restrained by and order of injunction from taking any further steps pursuant to order dated 2nd November 2004 issued by Defendant No.1 without due process of law.

4 2005 2 SCC 256
5 2022 19 SCC 806

[c] for ad-interim reliefs in terms of prayer clauses [a], [b] and [c] above;

[d] for such further and other reliefs as the nature and circumstances of the case may require.

9) It appears that Plaintiff No.1 has been deleted from the Suit and now the Suit is being prosecuted only by Mr. Maheskumar G. Garodia. The Suit thus raises a plain challenge to the termination orders dated 2 November 2004 by which the leases in respect of the lands at Arthur Salt Works and Jenkins Salt Works is terminated by the Applicants. Except raising challengs to the termination orders and seeking declaration that leases are valid and subsisting, no other prayer is sought in the Suit.

10) The plaint itself discloses that leases were in respect of the two lands for a period of 99 years commencing from 15 October 1917. Therefore, there can be no dispute to the position that the tenures of the leases have come to an end on 14 October 2016. So far as, the Plaintiff has not incorporated a prayer for renewal of the leases and the Suit continues to be the one challenging termination orders and seeking declaration of subsistence of the lease. Since the tenure of the leases has come to an end on 14 October 2016, the prayer that Indenture of Lease dated 16 February 1922 is valid, subsisting or binding is rendered infructuous. There is also no need to adjudicate the issue of validity of termination orders dated 2 November 2004 since Plaintiffs right to occupy the leased lands has otherwise come to an end on 14 October 2016. The suit was instituted because the lease was prematurely terminated. Therefore a declaration was sought that the lease was valid and subsisting, which declaration was relatable, at the time of filing of the

suit, to subsistence of lease till the tenure of 99 years upto 14 October 2016. However, during pendency of the suit, the tenure of the lease has come to an end. The issue for consideration is whether the suit can be dismissed in a situation where the very cause of action has come to an end.

11) Under Order VII Rule 11 of the Code, the Court is empowered to reject the claim *inter-alia* when the same does not disclose cause of action. In the present case, the Plaint disclosed the cause of action at the time when it was filed and therefore the remedy of Order VII Rule 11 of the Code would not be available for seeking rejection of the Plaint. This is a reason why Applicants invoked powers of the Court under Section 151 of the Code for seeking dismissal of the Suit. Section 151 of the Code provides thus:

> **151. Saving of inherent powers of Court.**
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> Nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court.

12) Thus, under Section 151 of the Code, the Court has inherent jurisdiction to make an order *ex-debito justitiae*. However, weather such inherent jurisdiction under Section 151 of the Code can be exercised for the purpose of directing dismissal of the suit, where cause of action has come to an end, is an issue for consideration. The issue appears to be no more *res-integra* and is covered by direct decision of the Apex Court in ***Shipping Corporation of India Limited*** (supra). In case before the Apex

Court, the contract of agency was terminated and suit was filed in the City Civil Court challenging the termination order and temporary injunction was sought to restrain the Defendant from interfering with the agency of the Plaintiff. The temporary injunction was granted in favour of the Plaintiff. During pendency of the suit, the Defendant once again terminated the agency on an altogether different ground. Another suit was filed by the Plaintiff in respect of second termination notice, in which an order of status-quo was granted. In revision preferred by the Defendants challenging the order of status-quo before the High Court, a prayer was made for dismissal of all the three suits pending before the trial Court. The matter was remanded by the High Court where Defendant filed application in the first suit seeking its dismissal on the ground that the same had become infructuous on account of subsequent termination order, which was subject matter of another suit. The Trial Court dismissed the application holding that injunction was granted in the first suit in favour of the Plaintiff, which would get defeated or vacated by dismissal of the suit. The High Court agreed with the conclusions of the Trial Court. When the dispute reached the Apex Court, the issue for consideration before the Apex Court was whether the first suit could be dismissed on the ground that the cause of action has come to an end on account of issuance of subsequent termination order. The Apex Court held in paras-18 to 28 as under:

> 18. This leaves us to consider the merits of the application filed by the appellant for dismissing the first suit OS No. 4212 of 1995 which is on the ground of the same having become infructuous. Before proceeding further to consider this question, we must notice the fact that the respondent has not disputed the fact that there is only one agreement of

agency dated 3-6-1988 and that the said agency came to be first terminated by a notice from the appellant dated 23-2-1995 which was the basis of the suit OS No. 4212 of 1995 and the very same agency came to be terminated once again by another notice dated 23-8-2001. It is also not disputed nor is it the basis of the orders of the two courts below that by the issuance of the second notice, the earlier termination notice dated 23-2-1995 stood superseded. **If that be so, the question for our consideration is: whether the said suit OS No. 4212 of 1995 is liable to be dismissed as having become infructuous or, as has been held by the two courts below, whether the said suit should be kept pending to keep alive the interlocutory order made in the said suit.** The further question to be considered is: can an application to dismiss the suit on the ground of same having become infructuous, be dismissed on the ground that the said application lacks bona fides or that the same would cause prejudice to the plaintiff because of the consequences of dismissal of that suit?

19. Coming to the maintainability of IA No. 20651 of 2001, the learned counsel for the appellant in support of his contention that an application under Section 151 CPC for the dismissal of the suit on the ground of same having become infructuous was maintainable, has relied on a number of judgments. In ***Ram Chand & Sons Sugar Mills (P) Ltd. v. Kanhayalal Bhargava*** while discussing the scope of Section 151 CPC this Court after considering various previous judgments on the point held: (AIR p. 1902, para 5)

> "The inherent power of a court is in addition to and complementary to the powers expressly conferred under the Code. But that power will not be exercised if its exercise is inconsistent with, or comes into conflict with, any of the powers expressly or by necessary implication conferred by the other provisions of the Code. If there are express provisions exhaustively covering a particular topic, they give rise to a necessary implication that no power shall be exercised in respect of the said topic otherwise than in the manner prescribed by the said provisions. Whatever limitations are imposed by construction on the provisions of Section 151 of the Code, they do not control the undoubted power of the court conferred under Section 151 of the Code to make a suitable order to prevent the abuse of the process of the court."

20. From the above, it is clear that if there is no specific provision which prohibits the grant of relief sought in an application filed under Section 151 of the Code, the courts have all the necessary powers under Section 151 CPC to make a suitable order to prevent the abuse of the process of

court. Therefore, the court exercising the power under Section 151 CPC first has to consider whether exercise of such power is expressly prohibited by any other provisions of the Code and if there is no such prohibition then the court will consider whether such power should be exercised or not on the basis of facts mentioned in the application.

21. In the instant case, the appellant contends that during the pendency of the first suit, certain subsequent events have taken place which has made the first suit infructuous and in law the said suit cannot be kept pending and continued solely for the purpose of continuing an interim order made in the said suit.

22. **While examining this question we will have to consider whether the court can take cognizance of a subsequent event to decide whether the pending suit should be disposed of or kept alive. If so, can a defendant make an application under Section 151 CPC for dismissing the pending suit on the ground the said suit has lost its cause of action.** This Court in the case of ***Pasupuleti Venkateswarlu v. Motor & General Traders*** (SCC at pp. 772-73, para 4) has held thus:

> "4. We feel the submissions devoid of substance. First about the jurisdiction and propriety vis-à-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 or 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 or render inept the decretal remedy. Equity justifies bending the rules of procedure, where no specific provision or fair play 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. Rulings on this point are legion, even as situations for applications of this equitable rule are myriad. 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 cognizance of events and developments subsequent to the institution of the proceeding

> provided the rules of fairness to both sides are scrupulously obeyed."

23. In the very same case, this Court quoted with approval a judgment of the Supreme Court of the ***United States in Patterson v. State of Alabama*** wherein it was laid down thus: (US p. 607)

> "We have frequently held that in the exercise of our appellate jurisdiction we have power not only to correct error in the judgment under review but to make such deposition of the case as justice requires. And in determining what justice does require, the court is bound to consider any change, either in fact or in law, which has supervened since the judgment was entered."

24. Almost similar is the view taken by this Court in the case of ***J.M. Biswas v. N.K. Bhattacharjee*** wherein this Court held: (SCC p. 71, para 10)

> "[T]he dispute raised in the case has lost its relevance due to passage of time and subsequent events which have taken place during the pendency of the litigation.... In the circumstances, continuing this litigation will be like flogging a dead horse. Such litigation, irrespective of the result, will neither benefit the parties in the litigation nor will serve the interest of the Union."

25. Thus it is clear that by the subsequent event if the original proceeding has become infructuous, *ex debito justitiae*, it will be the duty of the court to take such action as is necessary in the interest of justice, which includes disposing of infructuous litigation. For the said purpose it will be open to the parties concerned to make an application under Section 151 CPC to bring to the notice of the court the facts and circumstances which have made the pending litigation infructuous. Of course, when such an application is made, the court will enquire into the alleged facts and circumstances to find out whether the pending litigation has in fact become infructuous or not.

26. Having thus understood the law, we will now consider whether the courts were justified in rejecting the application filed by the appellant herein for dismissing the suit on the ground that the same had become infructuous. In this process, we have already noticed that there seems to be no dispute that the original termination notice based on which first suit OS No. 4212 of 1995 was filed, has since ceased to exist because of the subsequent termination notice issued on 23-8-2001, validity of which has already been challenged by the respondent in the third suit.

> 27. While dismissing the application IA No. 20651 of 2001 the courts below proceeded not on the basis that the original notice of termination has not become infructuous, but on the basis that the said application lacks in bona fides and if the said application is allowed the interlocutory injunction hitherto enjoyed by the plaintiff will get vacated and consequently the plaintiff will be prejudiced. The question for our consideration now is whether such ground can be considered as valid and legal. **While so considering the said question one basic principle that should be borne in mind is that interlocutory orders are made in aid of final orders and not vice versa.** No interlocutory order will survive after the original proceeding comes to an end. This is a well-established principle in law as could be seen from the judgment of this Court in ***Kavita Trehan v. Balsara Hygiene Products Ltd.*** wherein it is held: (SCC p. 391, para 23)
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> > "Upon dismissal of the suit, the interlocutory order stood set aside and that whatever was done to upset the status quo, was required to be undone to the extent possible."
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> **28. Therefore, in our opinion, the courts below erred in continuing an infructuous suit just to keep the interlocutory order alive which in a manner of speaking amounts to putting the cart before the dead horse.**
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> *(emphasis and underlining added)*

13) Thus, in ***Shipping Corporation of India limited,*** the Apex Court has held that if subsequent events render the suit infructuous, it is the duty of the Court to take such action as is necessary in the interest of justice, which includes disposing of infructuous litigation. It is further held that for that purpose, it is open to the parties to make an application under Section 151 of the Code.

14) In my view, for dismissal of the Suit under Section 151 of the Code, the facts and circumstances of the present case are far better than the one involved in ***Shipping Corporation of India limited***. In case before the Apex Court, the first suit challenged the first termination of agency

and the agency continued on account of interlocutory order passed in the first suit. The cause of action for second termination notice arose on account of continuation of agency due to interlocutory order passed in the first suit. The Defendant once again terminated the agency on account of events that occurred after passing of interlocutory order. Thus, there was some connect between interlocutory orders passed in the first suit and the second termination order. The Apex Court held that the cause of action for filing the first suit came to an end and the suit was rendered infructuous on account of issuance of second order of termination of agency. The Apex Court did not agree with the findings recorded by the Trial Court and the High Court, that dismissal of the suit would result in vacation of interlocutory order. Thus, merely because interlocutory order is coming to an end with dismissal of the suit, the same cannot be a ground for retaining an infructuous suit on file of the Court. In the present case, one of the reasons why the Trial Court has refused to dismiss the Suit is on account of interlocutory orders passed in the Suit. This is clear from the following findings recorded in the impugned order :-

> Here it is to be noted that in Notice of Motion No.1246/2005 my learned predecessor-in-court has passed the interim order in favour of the plaintiff.

Therefore mere possibility of interim injunction coming to an end due to dismissal of the suit cannot be a ground for keeping a otherwise dead suit pending on the file of the Court.

15) Mr. Bapat has strenuously contended that inherent jurisdiction of Court under Section 151 of the Code cannot be invoked when alternate remedies are available for the Plaintiff. Reliance is placed on judgment of the Apex Court in ***National Institute of Mental Health and Neuro Sciences Versus. C. Parameshwar*** in which it has held in paras-7, 8, 9, 10 and11 as under :-

> 7. The short question which arises for determination is whether application dated 20-6-2003 filed by the respondent under Section 10 read with Section 151 CPC seeking stay of Civil Suit No. 1732 of 1995 in the Court of City Civil Judge, Bangalore, was maintainable.
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> 8. The object underlying Section 10 is to prevent courts of concurrent jurisdiction from simultaneously trying two parallel suits in respect of the same matter in issue. The object underlying Section 10 is to avoid two parallel trials on the same issue by two courts and to avoid recording of conflicting findings on issues which are directly and substantially in issue in previously instituted suit. The language of Section 10 suggests that it is referable to a suit instituted in the civil court and it cannot apply to proceedings of other nature instituted under any other statute. The object of Section 10 is to prevent courts of concurrent jurisdiction from simultaneously trying two parallel suits between the same parties in respect of the same matter in issue. The fundamental test to attract Section 10 is, whether on final decision being reached in the previous suit, such decision would operate as res judicata in the subsequent suit. Section 10 applies only in cases where the whole of the subject-matter in both the suits is identical. The key words in Section 10 are "the matter in issue is directly and substantially in issue" in the previous instituted suit. The words "directly and substantially in issue" are used in contradistinction to the words "incidentally or collaterally in issue". Therefore, Section 10 would apply only if there is identity of the matter in issue in both the suits, meaning thereby, that the whole of the subject-matter in both the proceedings is identical.
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> 9. In the present case, the appellant had initiated the disciplinary proceedings against the respondent herein on charges of misappropriation of drugs. In the said disciplinary proceedings, the respondent was found guilty of alleged misappropriation of drugs. On the basis of the findings arrived at in the disciplinary enquiry, the respondent herein was removed. The extent of the loss suffered by the

appellant, as found in the disciplinary enquiry, was Rs 1,79,668.46. Being aggrieved by the order of dismissal, the respondent moved the Labour Court. On 29-10-2001, the Labour Court passed an award setting aside the order of removal dated 12-4-1993. Being aggrieved, the appellant instituted Writ Petition No. 24348 of 2002. The appellant has also instituted Civil Suit No. 1732 of 1995 for recovery of the loss suffered by it to the tune of Rs 1,79,668.46 with interest. Thus, as can be seen from the above facts, both the proceedings operated in different spheres. The subject-matter of the two proceedings is entirely distinct and different. The cause of action of the two proceedings is distinct and different. The cause of action in filing the said suit is the loss suffered by the appellant on account of the shortage of drugs. On the other hand, in the said Writ Petition No. 24348 of 2002, the management has challenged the award of the Labour Court granting reinstatement of the respondent.

10. As stated above, Section 10 CPC is referable to a suit instituted in a civil court. The proceedings before the Labour Court cannot be equated with the proceedings before a civil court. They are not the courts of concurrent jurisdiction. In the circumstances, Section 10 CPC has no application to the facts of this case.

11. In the impugned judgment, the High Court has observed that since Writ Petition No. 24348 of 2002 filed by the appellant against the award of the Labour Court was pending in the High Court and since the High Court was superior to the civil court, it was desirable to stay the passing of the decree by the civil court. At this stage, it may be mentioned that the respondent applied for stay of the trial pending in the City Civil Court, Bangalore under Section 10 read with Section 151 CPC. Since the scope of the writ petition filed by the management was entirely distinct and separate from the suit instituted by the management in the civil court, we are of the view, that, the High Court had erred in directing the trial court not to proceed with the drawing up of the decree.

16) The ratio of the judgment in ***National Institute of Mental Health and Neuro Sciences*** has no application to the present case. In case before the Apex Court, the Respondent therein was dismissed from service on allegation of misconduct with further direction to reimburse the loss caused to the Appellant. The Appellant therein demanded amount of Rs.1,79,668.46/- from the Respondent and filed Civil Suit

before the City Civil Court, Bangalore for recovery of the said amount. Parallelly, the Appropriate Government referred the industrial dispute at the behest of the Respondent to the Labour Court, Bangalore for adjudication of validity of removal order. The Labour Court answered the reference in the affirmative and set aside the removal order directing reinstatement of the Respondent without backwages. The Appellant challenged the award of the Labour Court before the High Court and by an interim order, operation of order of reinstatement was stayed by the High Court. The Respondent file application under Section 10 read with Section 151 of the Code in the civil suit and sought stay thereof till disposal of the Writ Petition. The application was dismissed by the Trial Court. The High Court however reversed the decision of the Trial Court and stayed the Civil Suit till disposal of the Writ petition. In the Appeal before the Apex Court, the issue was whether application filed under Section 10 and 151 of the Code seeking stay of the suit was maintainable. It is in the light of the above peculiar circumstances, the Apex Court held that the provisions of Section 10 of the Code apply to the suits instituted in Civil Court and that proceedings before the Labour Court cannot be equated with the proceedings before the Civil Court. It was further held that scope of Writ Petition filed by the Appellant was entirely distinct and separate from the Suit instituted by the Management in the Civil Court. The Apex Court referred to its judgment in ***Manohar Lal Chopra Versus. Rai Bahadur Rao Raja Seth Hiralal*** [6], in which it has been held that jurisdiction of Civil Court under Section 151 of Code cannot be exercised so as to nullify the provisions of the Code and that when the Court deals expressly with a

6 AIR 1962 SC 527

particular matter, the provision should normally be regarded as exhaustive. The ratio of the judgment in ***Manohar Lal Chopra*** (supra) is referred to by the Apex in ***National Institute of Mental Health and Neuro Sciences*** because the provisions of Section 10 of the Code were held to be not maintainable to proceedings before the Labour Court and therefore it was held that jurisdiction under Section 151 of the Code could not be invoked. Therefore, the judgment of the Apex Court in ***National Institute of Mental Health and Neuro Sciences*** is an authority on the issue that when it is impermissible to make an order on account of non-applicability of Section 10 in the Code to Labour Court proceedings, inherent powers under Section 151 of the Code cannot be invoked and stay the suit to achieve something which cannot be directly achieved under Section 10.

17) Reliance is also placed on behalf of the Respondent on judgment of the Apex Court in ***My Palace Mutually Aided Co-operative Society*** in support of the contention that availability of alternate remedies would bar exercise of inherent jurisdiction under Section 151 of the Code. The Apex Court has held in paras-23 to 28 of the judgment as under:

> 23. We have heard the learned Senior Counsel on either side, perused the entire material on record. Though several grounds have been raised, the first ground taken is that the High Court erred in exercising jurisdiction under Section 151 CPC, when alternative remedies exist under CPC. The second ground is that the Senior Judge on the Bench, who appeared for one of the parties, ought not to have heard the matter.
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> 24. In response to the first leg of challenge i.e. on the procedural aspect, we may note that the recall application was filed under Section 151 CPC against the final decree dated 19-9-2013 2. It is in this context that we

must ascertain whether a third party to a final decree can be allowed to file such applications, by invoking the inherent powers of the Court under Section 151 CPC.

25. Section 151 CPC provides for civil courts to invoke their inherent jurisdiction and utilise the same to meet the ends of justice or to prevent abuse of process. Although such a provision is worded broadly, this Court has tempered the provision to limit its ambit to only those circumstances where certain procedural gaps exist, to ensure that substantive justice is not obliterated by hypertechnicalities.

26. As far back as in 1961, this Court in ***Padam Sen v. State of U.P.***, observed as under: (SCC OnLine SC para 8)

> "8. ... The inherent powers of the Court are in addition to the powers specifically conferred on the Court by the Code. They are complementary to those powers and therefore it must be held that the Court is free to exercise them for the purposes mentioned in Section 151 of the Code when the exercise of those powers is not in any way in conflict with what has been expressly provided in the Code or against the intentions of the Legislature. It is also well recognised that the inherent power is not to be exercised in a manner which will be contrary to or different from the procedure expressly provided in the Code."
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> (emphasis supplied)

27. In exercising powers under Section 151 CPC, it cannot be said that the civil courts can exercise substantive jurisdiction to unsettle already decided issues. A court having jurisdiction over the relevant subject-matter has the power to decide and may come either to a right or a wrong conclusion. Even if a wrong conclusion is arrived at or an incorrect decree is passed by the jurisdictional court, the same is binding on the parties until it is set aside by an appellate court or through other remedies provided in law.

28. **Section 151 CPC can only be applicable if there is no alternative remedy available in accordance with the existing provisions of law.** Such inherent power cannot override statutory prohibitions or create remedies which are not contemplated under the Code. Section 151 cannot be invoked as an alternative to filing fresh suits, appeals, revisions, or reviews. A party cannot find solace in Section 151 to allege and rectify historic wrongs and bypass procedural safeguards inbuilt in CPC.

(emphasis added)

18) No doubt, the jurisdiction under Section 151 of the Code cannot be invoked if there are other alternate remedies available in accordance with existing provisions of law. However, in case before the Apex Court in ***My Palace Mutually Aided Co-operative Society***, third party to a final decree had filed application for recall of the final decree by invoking inherent powers of the Court under Section 151 of the Code. The Apex Court held that the third party had access to recourse under Section 96 of the Code by filing Appeal against the original decree and in the light of availability of remedy of filing an Appeal against a decree under Section 96 of the Code, Section 151 could not have been invoked.

19) In the present case, however it cannot be contended that the Applicants have any other alternate remedy for seeking dismissal of the suit, which has been rendered infructuous. As observed above, provisions of Order VII Rule 11 of the Code do not provide any remedy for the Applicants to seek dismissal of the suit on account of happening of a supervening event. Order VII Rule 11 of the Code contemplates rejection of plaint when the same does not disclose cause of action. The provision does not apply when the plaint discloses cause of action when lodged but the said cause of action comes to an end during pendency of the suit. Therefore, power of the Court to throw out such infructuous litigation must necessarily be traced to inherent jurisdiction under Section 151 of the Code. As observed above, I am supported in my view by the judgment of the Apex Court in ***Shipping Corporation of India Limited*** (supra).

20) Mr. Bapat has also contended that Plaintiff has already applied for regularization of the lease on 11 February 2016 and that therefore the cause of action in the Suit has not come to an end. I am unable to agree. The lease has admittedly expired on 14 October 2016. The Applicants immediately applied for dismissal of the Suit by tendering a Notice of Motion on 27 September 2016. Despite being aware of the fact that dismissal of the Suit was sought on account of expiry of tenure of lease, Plaintiff did not take any steps for incorporation of prayer for renewal of lease. As on the date of passing of the impugned order dated 11 November 2022, Plaintiffs had not filed application for amendment of plaint for incorporation of prayer for renewal of lease. I am informed that the Chamber Summons for amendment of the plaint for incorporation of prayer for renewal of lease is filed on 30 June 2025 i.e. after almost 3 long years of passing of the impugned order. In the present Revision Application, this Court is tasked with the function of determination of correctness of the order dated 11 November 2022 passed by the Trial Court. Correctness of that order will have to be determined based on the material produced before the Court as on the date of passing of the order. The Trial Court did not even have an application for amendment of the plaint as on 11 November 2022 when the impugned order was passed. By now, period of almost 10 long years has elapsed from the date of expiry of tenure of lease. Till date, the plaint does not contain any prayer for renewal of the lease. Therefore, the Suit, which is otherwise rendered infructuous, need not be retained on the file of the Court only because the Plaintiff has plans of seeking prayer for renewal of the lease in the pending Suit.

21) Also, the issue whether the cause of action as pleaded in the plaint has come to an end or not cannot be decided on the basis of Plaintiff's future plans. When it is urged that the suit is rendered infructuous on account of pleaded cause of action coming to an end, the Court cannot retain the suit under a hope that the Plaintiff is likely to incorporate a new cause of action in the suit by seeking amendment in the Plaint. If Plaintiff has any cause of action relating to renewal of lease, which he has failed to espouse for the last 10 long years, it would be open for him to exercise the remedy available in law. However, the current suit, which is dead, cannot be kept pending indefinitely for enabling the Plaintiff to espouse the alleged cause of action for renewal of the lease.

22) It would also be apt to take note of the developments that have occurred in the meantime. During pendency of the suit, the Collector, Mumbai Suburban District issued a direction vide order dated 1 October 2020 for handing over the possession of the leased land to the MMRDA for transfer to the Delhi Metro Rail Corporation Ltd. Plaintiff challenged order dated 1 October 2020 by filing Writ Petition No.471 of 2021 in this Court. Order dated 1 October 2020 was withdrawn by the Collector, who passed fresh order on 17 April 2023 for transferring 15 hectares out of the leased land to MMRDA and the said order was challenged by the Plaintiff in Writ Petition No.5362 of 2024. While dismissing both the Petitions in ***Maheshkumar Gordhandas Garodia Versus. The State of Maharashtra*** (supra) the Division Bench has held as under:

> There is no dispute that the Indentures were for a period of 99 years commencing from 15th October 1917 and expired on 14th October 2016. The lessee may have a right to give notice for renewal of the lease but only upon due observance of the conditions under the lease. However, the renewal Clause (VI) (2) does not survive on termination of the lease on 2nd November 2004, and may still not revive upon a determination by the Civil Court that the termination order was illegal, arbitrary and wrong. There is no order passed in the suit or by this Court staying the operation of the order dated 2nd November 2004 by which lease deeds dated 16th February 1922 were terminated.

Thus, in Plaintiff's own case, the above observation are made by the Division Bench with regard to renewal of the lease.

23) It is also strenuously contended by Mr. Singh that in ***Vikas Kamalakar Walawalkar,*** a similar Suit by another lessee of salt land has been dismissed by this Court after conducting the trial. The said Suit involved both, challenge to the termination order, as well as direction for renewal of the lease. It appears that the Appeal Court refused to stay the decree for dismissal of the suit and vacated injunction qua part of the land and directed payment of amounts for retention of possession of part of the land. By order dated 20 August 2025 the Apex Court has confirmed the order of the Division Bench.

24) Thus the very right of the Plaintiff to have the lease renewed, as of now, appears to be in quandary. In any case, it is not necessary to delve deeper into this aspect and as and when the Plaintiff decides to adopt remedies for renewal of the lease, the issue can be determined in those proceedings. Suffice it to hold at this juncture that the present Suit need not be kept pending because Plaintiff desires to incorporate the prayer for renewal of lease in the Plaint by amendment.

25) The Plaint filed in the Suit does not contain any prayer other than the prayer for challenging the termination orders and seeking declaration for a subsistence of lease. The solitary substantial prayer in the Suit has been rendered infructuous with expiry of tenure of lease on 14 October 2016. As held by the Apex Court in ***Shipping Corporation of India Limited***, it is the duty of the Court to ensure that infructuous litigation is thrown from its file by having recourse to inherent jurisdiction under Section 151 of the Code. The Trial Court has committed jurisdictional error in not allowing the application preferred by the Applicants for dismissal of the Suit. The impugned order passed by the Trial Court is thus indefensible and liable to be set aside.

26) Resultantly, the Revision Application succeeds, and I proceed to pass the following Order:

(i) The order dated 11 November 2022 passed by the learned Judge, City Civil Court, Mumbai in Notice of Motion No. 3788 of 2016 is set aside.

(ii) Notice of Motion No. 3788 of 2016 is made absolute to the extent of directing dismissal of Civil Suit No. 6256 of 2005.

(iii) Civil Suit No. 6256 of 2005 is accordingly dismissed.

27) The Civil Revision Application is allowed in above terms. There shall be no order as to costs.

[SANDEEP V. MARNE, J.]

28) After the judgment is pronounced, Mr. Bapat prays for stay of the judgment for a period of four weeks. The request is opposed by Mr. Singh. Considering the nature of findings in the order, prayer for stay of the judgment cannot be granted and the same is accordingly rejected.

[SANDEEP V. MARNE, J.]