

J.S. Ravichandra Vs. Statistical Analyasis and Research Bureau, Chennai

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Court : Andhra Pradesh

Decided On : Nov-22-1999

Reported in : 2000(1)ALD277; 2000(1)ALT89

Judge : Krishna Saran Shrivastav, J.

Acts : [Code of Civil Procedure \(CPC\), 1908](#) - Sections 3, 15, 23, 24, 63, 100, 115, 122, 133, 136 and 137; [Consumer Protection Act, 1986](#) - Sections 9, 10, 12, 13, 14, 16, 17, 18, 20, 22, 23, 24 and 30; Andhra Pradesh Tenancy Act - Sections 16; [Constitution of India](#) - Articles 32, 226 and 227; Madras Hereditary Village Offices Act

Appeal No. : TCMP No. 226 of 1999

Appellant : J.S. Ravichandra

Respondent : Statistical Analyasis and Research Bureau, Chennai

Advocate for Def. : Mr. J.V. Prasad, Adv.

Advocate for Pet/Ap. : Mr. Y. Visweswara Rao, Adv.

Judgement :

1. This application raises a short but interesting and important question of law.
2. The petitioner and the respondent entered into a memo of understanding on 19-11-1994 for the purpose of securing joint venture collaboration agreement

between TTI Limited and the respondent. Alleging default and misrepresentation on the part of the petitioner, an application in OP No.98 of 1995 has been filed by the respondent against the petitioner on 17-12-1995 before the Andhra Pradesh Consumer Disputes Redressal Commission at Hyderabad (for short, 'the Consumer Forum') for the recovery of compensation of Rs.6 lacs with interest and costs. The petitioner also filed a civil suit in OS No.89 of 1996 on the file of the II Additional Judge, City Civil Court, Hyderabad, alleging breach of memo of understanding and sought relief of money decree against the respondent.

3. The petitioner has filed this application alleging that the claim and the counter-claim have arisen on rival allegations on the strength of the memo of understanding dated 19-11-1994, that there is likelihood of conflicting judgments, that the proceedings pending before the Consumer Forum are summary in nature and that the parties are the same, and requesting that OP No.98 of 1995 pending before the Consumer Forum should be withdrawn from its file and be transferred to the II Additional Judge, City Civil Court, Hyderabad, to be tried along with OS No.89 of 1996. The respondent has opposed the application on the ground that the Consumer Forum is not subordinate to the High Court within the purview of Section 24 of the Code of Civil Procedure and, therefore, the application is liable to be dismissed on this count only.

4. The question that falls for determination is whether the Consumer Forum is subordinate to the High Court for the purposes of Section 24 of the Code of Civil Procedure?

5. Learned Counsel of the petitioner relying on the case of *L Chandra Kumar v. Union of India and others*, : [1997]228ITR725(SC) , has argued that the High Court has got jurisdiction to judicial review of judicial decisions and has been vested with the power to exercise judicial superintendence over the decisions of all Courts and Tribunals within its jurisdiction. He has further argued that the civil Court has jurisdiction to try suits of civil nature under Section 9 of the Code of Civil Procedure. The jurisdiction of civil Court cannot be inferred as barred where statute does not specifically oust its jurisdiction. Reliance has been placed on the cases of *Dhulabhai v. State of Madhya Pradesh*, : [1968]3SCR662 , *Ram Prasad*

and others v. Assistant Director of Consolidation and others, : [1994]3SCR231 , and Saraswathi and others v. Lachanna, : (1994)1SCC611 . On the authority of the case of Sushil Kumar v. Senior Divisional Manager, Oriental Insurance Company Limited, II (1992) CPJ 632, it has been lastly argued that the Consumer Forum should not decide complicated questions of fact, the decision of which requires voluminous oral and documentary evidence and, therefore, the case pending before the Consumer Forum should be transferred to the Court of the II Additional Judge, City Civil Court, Hyderabad, for disposal according to law.

6. Relying on the case of Peyyeti Jagamiadha Rao v. Pamarti Venkateswara Rao and others, : AIR 1960 AP49 , and P. V. Subrahmanyachari v. Valasala Chandramouli and others, 1963 (2) ALT 43, it has been urged by the learned Counsel of the respondent that, the Consumer Forum is not a Court subordinate to the High Court and, therefore, the application is not maintainable.

7. The relevant portion of Section 24 of the Code of Civil Procedure is extracted below:

'24. General power of transfer and withdrawal:--(1) On the application of any of the parties and after notice to the parties and after hearing such of them as desire to be heard, or of its own motion without such notice, the High Court or the District Court may at any stage-

(a) x x x x

(b) withdraw any suit, appeal or other proceedings in any Court subordinate to it, and-

(i) x x x x

(ii) transfer the same for trial or disposal to any Court subordinate to it and competent to try or dispose of the same; or

(iii) x x x x x

8. A look at the aforesaid provision shows that Section 24 of the Code of Civil Procedure is applicable only when any suit, appeal or other proceeding is pending

in any Court subordinate to the High Court,

9. The Consumer Protection Act, according to the preamble, provides better protection of interest of consumers. Section 3 of the Act clarifies that provisions of the Consumer Protection Act are in addition to the existing laws. It does not extinguish the remedies conferred on the consumers under the provisions of any other laws for the time being in force. District Forum, State Commission and National Consumer Disputes Redressal Commission have been appointed under Section 9 of the Act. Provision has been made for composition of District Forum under Section 10 and under Section 12, manner in which the complaint should be made has been prescribed, while Section 13 deals with the procedure to be followed on receipt of complaint. Finding is to be recorded by the District Forum under Section 14. Provision for composition of State Tribunal has been provided under Section 16 and procedure has been prescribed under Section 18 of the Act. The State Commission is the first appellate authority. Under Section 20 provision has been made for composition of National Commission. It is also an appellate authority. The appeal against the orders passed by the National Commission is to be preferred to the Supreme Court under Section 23 of the Act. Under Section 17, the order passed by the redressal Agencies is to be enforced. When the order becomes final under Section 24, only then, the jurisdiction of the civil Court is ousted. The National Commission is competent to exercise powers of revision under Section 24 of the Act while the State Commission can exercise it under Section 17. Under Section 30, the Central Government as also the State Government is empowered to frame Rules. Under Section 24(B), the National Commission and the State Commission have got administrative control on Subordinate Forums.

10. From what is stated above, it is evident that the [Consumer Protection Act, 1986](#) is a self-contained Act. The Act confers certain powers on three redressal Agencies. Right from the institution of the proceedings till passing of the final order, disposal of appeal and execution of decrees, the entire matter is controlled by the aforementioned three Redressal Agencies. The National Forum has got power to revise the orders of the lower Agency, similarly as the High Court has got jurisdiction to revise the orders passed by the Subordinate Courts under Section

15 of the Code of Civil Procedure. The Redressal Agency has power to summon witnesses, call for production of documents and to examine the witnesses on oath, or evidence may be taken on affidavits, but these few provisions of the Code of Civil Procedure are not indicative of the fact that the inquiry which is to be done by the Redressal Agencies would be sufficient to conclude that these agencies should be regarded as Courts subordinate to High Court.

11. In the case of Peyyeti Jagannadha Rao (supra), it has been held that it is only the Courts that are subject to the authority of High Court that would answer the description of the Courts indicated in Section 115 of the Code of Civil Procedure and that section would not take in Tribunals empowered to discharge quasi-judicial functions. The position of a Tahasildar or a Revenue Divisional Officer discharging functions under Section 16 of the Andhra Pradesh Tenancy Act cannot be equated to that of the Court, since they do not fall within the category of Courts. The Tribunals in question are not civil Courts subordinate to the High Court for purposes of Section 115 of the Code of Civil Procedure and as such their orders cannot be revised under that section.

12. Again in the case of P. V. Subrahmanyachari (supra), a Division Bench of this Court has observed that, although the word 'subordinate' has not been defined anywhere in the Civil Procedure Code, it undoubtedly plays an important role in the Code as may be seen from Sections 23, 24, 100, 115, 133, 136 and 137. This apart there are several phrases such as 'Court of a grade inferior' (Section 3), 'Court of the highest grade' (Section 63), 'Civil Courts subject to their superintendence' (Section 122) which signify that the word 'subordinate' in reference to civil Courts has been used giving it a special meaning. Section 3 of the Code of Civil Procedure says which Courts are subordinate to the High Court. Section 3 has been reproduced below:

'3. For the purposes of this Code the District Court is subordinate to the High Court, and every civil Court of a grade inferior to that of a District Court and every Court of Small Causes is subordinate to the High Court and District Court'.

13. It thus becomes clear that as far as the Code of Civil Procedure is concerned, the aforementioned Courts are the Courts which are considered to be Subordinate

Courts to the High Court. This, perhaps, is the only definition of 'subordinate' given in the Code and the presumption is that the word 'subordinate' in Section 115 of the Code of Civil Procedure is used in the sense in which it is defined in Section 3.

14. It is settled rule of interpretation that, similar words used in the same section or different parts of the same Act have the same meaning. The words 'Court Subordinate' have been used in Section 24 as also in Section 115 of the Code of Civil Procedure. The meaning of this similar expression has been given in Section 3 of the Code of Civil Procedure. Therefore, the same interpretation should be given to that expression. As noted above, the Tribunal constituted under the Andhra Pradesh Tenancy Act has not been regarded as Court subordinate to the High Court for purposes of Section 115 of the Code of Civil Procedure, vide *Peyyeti Jagannadha Rao* (supra). Similarly, Collector acting under the Madras Hereditary Village Offices Act has also not been regarded a Court subordinate to High Court for purposes of Section 115 of the Code of Civil Procedure, vide *P. V. Subrahmanyachari* (supra). As noticed above, the same words have been used in different sections of the Code of Civil Procedure, therefore, they should have the same meaning. Under these circumstances, the Consumer Forum cannot be said to be a Court subordinate to the High Court within the purview of Section 24 of the Code of Civil Procedure.

15. The Apex Court in the case of *L. Chandra Kumar* (supra) has held that the jurisdiction conferred on High Courts under Article 226/227 and on the Supreme Court under Article 32 of the [Constitution of India](#) is a part of the basic structure of the Constitution. The Judges of the superior Court have been entrusted with the task of upholding the Constitution and to this end have been given power to interpret it. It is their duty to oversee that the judicial decisions rendered by those who man the Subordinate Courts and Tribunals do not fall foul of strict standard of legal independence. The power of High Courts and the Supreme Court to test the constitutional validity of legislations can never be ousted or excluded. The power vested in High Courts to exercise judicial superintendence over the decisions of all Courts and Tribunals within their respective jurisdiction is part of the basic structure of the Constitution. Thus, the High Court has got power of judicial review as also has got power to exercise judicial superintendence over the decisions of

Courts and Tribunals under Articles 226 and 227 of the Constitution. But, in the case on hand, the question of exercising power of judicial review or superintendence over the decision of the Consumer Forum is not required to be done. To exercise powers under Articles 226 and 227 of the [Constitution of India](#) is quite different from the powers vested in High Court under Section 24 of the Code of Civil Procedure. Therefore, the case of L Chandra Kumar (supra) is of no assistance to the petitioner.

16. The respondent has not challenged the power of civil Court to try the case. The jurisdiction of civil Court has not been ousted. It is the choice of the complainant either to seek remedy in the civil Court or before the Consumer Forum, in case he alleges either deficiency in service or inherent defect in the goods supplied. But, if the Redressal Agencies find that complicated question of facts is involved in the case and for resolving the controversy, taking of elaborate oral evidence and voluminous documentary evidence is required and that evidence is to be assessed, the Redressal Agency is competent to decline deciding the case and direct the parties to go to civil Court vide Section 13 of the Consumer Protection Act. It is for the original Redressal Agency which is making inquiry to record such a finding and the aggrieved party may seek his remedy by way of appeal or revision, as the case may be. But, on that allegation, the case pending before the Redressal Agency cannot be withdrawn from and transferred to the civil Court for the simple reason that the Redressal Agency is not a Court subordinate to the High Court under Section 24 of the Code of Civil Procedure. The cases of Dhulabhai (supra), Ram Prasad (supra) and Saraswathi (supra) are of no help to the petitioner for the simple reason that jurisdiction of the civil Court to try the case is not under challenge.

17. The petitioner is at liberty to file an application before the Consumer Forum on the ground that voluminous oral and documentary evidence would be required in the case and it requires a detailed scrutiny and assessment of such evidence and, therefore, the respondent should be directed to take recourse to the civil Court and if such an application is made, the concerned Redressal Agency shall decide it according to law. But, on such allegations, the application for transfer cannot be entertained here.

18. In the result, the application for transfer, being not maintainable, is dismissed.

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