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Court : Madhya Pradesh

Decided On : Jul-04-2005

Reported in : IV(2006)BC19; 2005(4)MPLJ200

Judge : A.M. Sapre, J.

Acts : Provincial Small Cause Court Act - Sections 9 and 25; [Code of Civil Procedure \(CPC\) , 1908](#) - Sections 115

Appeal No. : C.R. No. 273 of 2004

Appellant : Bapulal

Respondent : Chunnilal

Disposition : Petition dismissed

Judgement :

ORDER

A.M. Sapre, J.

1. This is a revision filed by the plaintiff against an appellate order dated 16.4.2004 passed by III Addl. District Judge, Mandsaur, whereby the suit filed by the plaintiff for recovery of Rs. 814 was dismissed. This revision is, therefore, filed Under Section 9 of the Provincial Small Cause Court Act read with Section 115 of C.P.C.

2. Having gone through the impugned judgment under challenge, I find absolutely no case to interfere. I can do no better except to quote the decision rendered by Nagpur High Court in the case of Rajeshwar v. Dashrath AIR 1943 Nag. 117. It is in this case their Lordships made following observations constituting full Bench consisted of three eminent Judges of Nagpur Bench of which one member (Vivian Bose, J.) later became Chief Justice of this Court and then Judge of Supreme Court. In the words of Their Lordships:

Per Full Bench - There should be no interference on a question of fact or of law, even though the decision may appear to be erroneous unless the conclusion of the Small Cause Court is one which no Judge acting judicially could reasonably reach.

In the words of Vivian Bose, J.

The Court of revision is not there to set right errors of either law or fact in the lower Court but merely to see whether there has been a fair and proper trial according to standards which obtain in Courts of justice, ignoring petty errors in procedure and trivial technicalities, and to see whether a judicial mind could have arrived at the conclusion reached. All else is foreign to a revision.

A revising authority cannot interfere with the decision of a lower Court on a point like limitation unless the error is so gross that no judicial mind could have reached it, as for example, when a lower Court refuses to be bound by a decision of its own High Court or of the Privy Council, or refuses to follow a plainly worded section in an Act about which there could be no reasonable difference of judicial opinion. The test for seeing whether a decision is according to law is not whether the High Court, or the particular Judge presiding over the Court in revision would have reached the same conclusion, but whether a Judge acting judicially could reasonably have reached it. If he could, then the decision is according to law and the High Court cannot interfere. If he could not, then the case is opened up and the High Court is bound to interfere and itself to decide 'according to law,' that is to say, to decide just as it would if it were sitting in appeal. The word 'may' used in Section 25 is not permissive. It has the force of 'shall'. The High Court's powers are wider on facts than in second appeal, because the High Court can interfere

even on facts if the decision is one which no Judge acting judicially could reasonably have reached. On the Other hand the High Court's powers on questions of law are much narrower because unlike on appeal, the High Court cannot decide the issues, however, erroneous it may appear to be to the Judge hearing the revision, unless the decision is not 'according to law'.

3. As is clear it is in this case Their Lordships held by laying down the law that finding or fact of law can be set aside provided it is shown that no judicial man can ever reach to such conclusion. Their Lordships went to the extent of holding that even a wrong finding on fact/law can not be set aside unless it is shown that no Judge acting judicially could reasonably reach.

4. No such case is made out because finding recorded by the Trial Court in exercise of its original powers as Small Cause Court on facts cannot be said to be either perverse or illegal.

5. As observed supra, the suit is for recovery of Rs. 812. The learned trial Judge has rightly dismissed the suit by disbelieving the oral evidence adduced by the plaintiff. It was held and in my opinion rightly that the case set up by the plaintiff appears to be unnatural and false. All these findings are pure findings of fact and revisionary Court cannot interfere in such finding of fact which is capable of being recorded by any Small Cause Court. Revision thus fails and is dismissed.