

**Ramachandra Vs. Daulatram**

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**SooperKanoon Citation :** [sooperkanoon.com/752010](http://sooperkanoon.com/752010)

**Court :** Rajasthan

**Decided On :** Oct-31-1950

**Reported in :** AIR1952Raj59

**Judge :** Ranawat and; Dave, JJ.

**Acts :** [Code of Civil Procedure \(CPC\) , 1908](#) - Sections 115; Matsya Premises (Rent Control) Ordinance, 1948 - Sections 3 and 10

**Appeal No. :** Civil Revn. No. 88 of 1950

**Appellant :** Ramachandra

**Respondent :** Daulatram

**Advocate for Def. :** Ram Avtar Gupta, Adv.

**Advocate for Pet/Ap. :** Jagan Prasad, Adv.

**Disposition :** Application dismissed

**Judgement :**

**Dave, J.**

1. This is an application in revision under Section 115 C. P. C. by a tenant named Ram Chandra against the appellate order of the District Judge, Alwar, dated the 30th March 1950, reversing the order of the Rent Controller Alwar, dated the 23rd

November 1949.

2. Mr. Ram Avtar appearing for the opposite party has raised a preliminary objection that this Court is not authorised to interfere with the order complained of under Section 115 C. P. C. According to him, the District Judge, Alwar, who was appointed as an appellate authority under Section 10 of the Rent Control Order was a persona, designate and while deciding the appeal he was not functioning as an officer of the civil Court subordinate to the jurisdiction of the High Court. The applicant's advocate has urged in reply that there were two parties before the District Judge; he was discharging a judicial function in deciding the dispute between them; he was therefore working as a Court and he being subordinate to this High Court, his decision was certainly subject to revision under Section 115 C. P. C.

3. The first point for our determination therefore is whether the District Judge while deciding the appeal was a persona designate or a civil Court subordinate to the jurisdiction of this Court within the meaning of Section 115 of the Civil P. C.

4. To my mind, the objection put forward by the advocate for the opposite party is correct and, should, therefore, be allowed to prevail. The reply given by the applicant's advocate seems to make a little confusion between the powers of this Court under Article 226 of the Constitution of India & Section 115 of the Civil P. C. It must be clearly borne in mind that the powers of this Court under Section 115 C. P. C. are not wholly identical with those conferred by Article 226 of the Constitution of India. In order to enable the High Court to interfere under Section 115 C. P. C. it is necessary that the decision sought to be revised should be that of a civil Court subordinate to it. It was observed by their Lordships of the Privy Council in 'SHELL COMPANY OR AUSTRALIA, LTD. v. FEDERAL COMMISSIONER OF TAXATION', (1931) A. C. 275 that:

'the authorities are clear to show that there are tribunals with many of the trappings of a Court which, nevertheless, are not Courts in the strict sense of exercising judicial powers.'

It follows that every type of a body or a tribunal cannot be a civil Court, simply because it possesses certain trappings of a Court. Similarly it is not true that every decision given by an officer who is ordinarily a presiding officer of a judicial Court is a decision of a civil Court. There may be cases in which Judicial officers may be entrusted with some special powers of a quasi-judicial nature by special legislation and if they proceed to decide a certain matter in that capacity, it does not necessarily mean that it is a decision of a civil Court. In cases where a certain decision is given by a person who is ordinarily a judicial officer, the question whether the matter was decided by him as a civil Court or as a persona designate is not free from difficulty. The distinction in most cases is very fine and it is not easy to draw a clear line of demarcation in definite terms. To my mind, one of the main tests to be applied is whether the matter in which the decision has been given was meant by the legislature to be decided by a civil Court in the exercise of its ordinary jurisdiction or whether it meant to reserve its authority to entrust the matter to any executive or administrative body. In other words, it should be seen whether the matter had come to the judicial officer for decision only as a part of his ordinary jurisdiction or by reason of a special jurisdiction conferred upon him. It should further be seen whether the legislature meant to give a finality to his decision or to keep the appellate and revisional powers to another administrative or executive body or it was meant that the High Courts should continue to exercise their revisional powers and treat that officer as their subordinate in respect of the matter in which the decision was given.

5-6. Looking from this angle of vision, it becomes quite clear that the matter had gone to the District Judge, Alwar, not in his ordinary capacity of a judicial officer but as a persona designata.

7. Section 3 of the Matsya Premises (Rent Control) Ordinance, 1948, says that 'controller' means the officer appointed for the time being by the Government of the United State to be the Rent Controller for the area specified in the order. This definition makes it quite clear that a Controller need not be a judicial officer and the Government is free to appoint any officer as such. Then Section 10 provides that any person aggrieved by an order of the Controller may within one month from the date of the communication of the order, present an appeal in writing to such

officer as the Government of the United State may appoint. The decision of such officer and subject to such a decision, the order of the Controller shall be final. It is also clear from the language of Section 10 that the Government is free to appoint any person as an appellate authority and he need not necessarily be a judicial officer. The mere fact that the District Judge of Alwar was under this section appointed as an appellate authority would not, therefore, make him a civil Court subordinate to the jurisdiction of this High Court. It would further appear from the language of this section that the decision of the appellate authority and subject to his decision the order of the controller is final. This again shows that both the Rent Controller and the appellate authority under this Ordinance are not civil Courts. A similar question had come up for discussion in the case reported in 'PITMAN'S SHORTHAND ACADEMY v. B. LILARAM & SONS', AIR (37) 1950 E P 181 (F B) and it was held by a Full Bench of that High Court that the Rent Controller and the appellate authority appointed under the Punjab Urban Rent Restriction Act of 1947 did not constitute civil Courts subordinate to the appellate jurisdiction of the High Court and, therefore, their orders were not subject to revision. It was remarked in that case that a non-official or even an official may be appointed as a *persona designata* to perform certain functions which may in some respects be judicial but he does not thereby become a civil Court. In another case reported in 'INDIAN HOMEOPATHIC MEDICAL ASSOCIATION, CALCUTTA v. KANAI LAL PAL', AIR (37) 1950 Cal 263 a similar view was expressed by their Lordships of that High Court and it was held that the order of the Chief Judge of the Court of Small Causes modifying on appeal an order of the Rent Controller fixing the standard rent for certain premises not being one mentioned in Section 32(6) was not open to revision by the High Court.

8. The objection of the opposite party is, therefore, allowed and the application is dismissed with costs.

**Ranawat, J.**

9. I agree.