
(2001) 08 MP CK 0051
In the Madhya Pradesh High Court
Case No : Civil Revision No. 160/98

Aditya Narayan

APPELLANT

Vs

Chandu Singh and Others

RESPONDENT

Date of Decision : 17-08-2001

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 6 Rule 16, Order 6 Rule 17, 9
Madhya Pradesh Ke Kamjor Vargon Ke Krishi Bhumi Dharakon Ka Udhar Dene Walon
Ke Bhumi Hadapane Sambandhi Kuchakron Se Paritran Tatha Mukti Adhiniyam, 1976
— Section 14

Citation : (2001) 4 MPHT 283 : (2001) 3 MPLJ 630

Hon'ble Judges : S.S. Jha, J

Bench : Single Bench

Advocate : A.K. Shrivastava, for the Appellant; Vilas Tikhe, for the Respondent

Final Decision : Allowed

Judgement

S.S. Jha, J.

The revision is filed against the order allowing application under Order VI Rule 17, CPC and rejection of petitioner's application under Order VI Rule 16, CPC.

Plaintiffs have filed a civil suit for declaration and perpetual injunction. He prayed for declaration that the sale-deed dated 21-4-1970 be declared null and void. Counter-claim for perpetual injunction is filed by defendants 1 and 2. It was contended that the dispute regarding challenge to the sale-deed cannot be heard by the Civil Court as the jurisdiction vests with the Sub-Divisional Officer under the provisions of "M.P. SAMAJ KE KAMJOR VARGON KE KRISHI BHUMI DHARAKON KA UDHAR DENE WALON KE BHUMI HADAPANE SAMBANDHI KUCHAKRON SE PARITRAN TATHA MUKTI ADHINIYAM, 1976" (hereinafter, referred to as the "Adhiniyam") and it was prayed that the pleadings regarding cancellation of the sale-deed should be deleted from the plaint by the plaintiffs. Plaintiffs have moved an application under Order VI Rule 17, CPC that the plaintiffs have filed the suit for declaration of title and cancellation of the sale-

deed and the Trial Court vide order dated 15-4-1996 has held that jurisdiction to consider this aspect vests with the Sub-Divisional Officer, Raghogarh and the Trial Court accordingly passed orders. Sub-Divisional Officer, Raghogarh has passed orders on 17-1-1997 that the case does not fall within the provisions of the Adhiniyam, therefore, amendment was sought. Petitioner objected to the amendment stating therein that the interim order passed on 15-4-1996 had become final and the present amendment cannot be permitted, once Trial Court has held that it has no jurisdiction to entertain the dispute regarding the nature of transaction in the sale deed the Trial Court cannot invoke its jurisdiction by allowing the application for amendment. Trial Court after hearing the parties has allowed the application for amendment.

Only question involved in this revision is whether amendment could be allowed and whether earlier order in the same proceedings dated 15-4-1996 will operate as res judicata.

In the case of Smt. Isabella Johnson Vs. M.A. Susai, . In this case it has been held that the Court which has no jurisdiction in law cannot be conferred with the jurisdiction by applying principles of res judicata. It has been further held that there can be no estoppel on a pure question of law and the question of jurisdiction is a pure question of law.

In the case of Authorised Officer (Land Reforms) Vs. M.M. Krishnamurthy Chetty[OVERRULED], , it is held that once the judgment on the basis of which the High Court had directed to dispose of the dispute relating to the excess land had been reversed by the Supreme Court, the Authorised Officer was justified in following the judgment of the Supreme Court instead of the judgment of the High Court. Order passed by the High Court directing the Authorised Officer to examine the dispute in the light of the judgment of the High Court in the case of Naganatha Ayyar v. Authorised Officer, became final although the judgment on which the grievance had to be examined itself was reversed later by the Supreme Court. It was held that there is no fault with the reasoning of the High Court. It is well settled that even orders which may not be strictly legal become final and are binding between the parties, if they are not challenged before Superior Courts.

In the case of V.S. Charati Vs. Hussein Nhanu Jamadar (Dead) by Lrs, , it is held that any decision rendered by the Tribunal/Court, in absence of challenge became final and binding on both the parties and merely because it may be wrong it would not become a nullity. Any judgment unopposed becomes final and binding.

In the case of Gorie Gouri Naidu (Minor) and another Vs. Thandrothu Bodemma and others, previously between the parties another suit was instituted and in that suit the validity of the deed of gifts made was questioned," and it was held that the said deeds of gifts were not valid under the Hindu Law. In appeal before the Andhra Pradesh High Court, it was held that such deed of gifts was invalid. It

was held by the High Court that in view of such declaration of the said deed of gifts as invalid, no claim of title on the basis of the said deed of gift or family settlement can be made. Once it has been declared that gifts are invalid, then the finding is binding upon the parties and the question of estoppel will not arise.

This question was considered by this Court in the case of Panjoomal v. Dwarka Prasad and Ors. (1966 J.L.J. SN 30) and it is held that the Court having no jurisdiction is not competent to allow amendment in the plaint, which if granted would bring the suit within its jurisdiction.

Only question involved in this case is whether the earlier order would operate as *res judicata* between the parties.

It is true that the suit was filed between the parties and the defendant has raised specific plea that Civil Court has no jurisdiction under the provisions of the Adhiniyam to adjudicate the dispute. Suit of plaintiffs was converted into the suit for injunction and the suit of the plaintiff was held to be barred by jurisdiction before the Civil Court. Plaintiffs then filed an application in the Court of Sub-Divisional Officer under the Adhiniyam. While adjudicating the application, the competent authority held that the application is not maintainable as it was filed beyond the period of limitation. While considering the scope of the Adhiniyam, it was held that the Adhiniyam has been made applicable with effect from 1-1-1971. Lands were sold in the year 1970 and the application was filed in the year 1995. The application ought to have been filed within a period of one year from the date of framing rules under the Adhiniyam in the year 1978. Application as filed was beyond limitation as such, it was rejected.

Thus the Court has not adjudicated the nature of the transaction; the application was rejected as barred by limitation. This order has not been challenged by the plaintiffs in appeal under the Adhiniyam. Nature of transaction was not determined and the application was rejected as barred by limitation. Once the application is rejected as barred by limitation and special law prohibits entertaining the dispute if it is filed beyond the period of limitation, the Civil Court will have no jurisdiction to entertain similar dispute, ignoring the provisions of Section 14 of the Adhiniyam. The Adhiniyam is a special provision to give benefit to the poor litigants and under the rules framed under the Adhiniyam application ought to have been filed for any pending transaction prior to first day of January, 1971, within a period of one year from framing of the rules. If such application is not filed within the period, the party has lost its right to file application. In these circumstances, by way of amendment the question could not be examined. The earlier order passed between the parties had become final and shall operate *res judicata*. In the circumstances, application filed by the plaintiffs for amendment is dismissed. 12. Revision succeeds and is allowed. There shall be no order as to costs.

Civil Revision allowed.