
(1984) 08 SIK CK 0001
In the Sikkim High Court
Case No : Civil Revision No. 1 of 1984

Hari Prasad Sapkota and others

APPELLANT

Vs

Krishna Prasad and others

RESPONDENT

Date of Decision : 21-08-1984

Acts Referred:

Citation : AIR 1984 Sikk 71

Hon'ble Judges : Ripusudan Dayal, J

Bench : Single Bench

Advocate : Niladri Sarkar, for the Appellant; C.R. Bhattacharjee, for the Respondent

Final Decision : Dismissed

Judgement

Ripusudan Dayal, J.—This is a revision under S. 115 of the Civil P. C. and Art. 227 of the Constitution against the order dt. 26-12-83 of the learned District Judge, Sikkim, accepting the valuation of the reliefs, put by the plaintiffs-respondents in a suit brought by them against the petitioners, being defendants 1 to 3, and other defendants in the year 1979, for partition of the properties said to be joint Hindu family properties as detailed in Schedule "A" to the plaint with a declaration of their right, title and interest therein to the extent of 3/4th share and also for rendition of accounts in respect of the income thereof, as also for permanent injunction restraining the defendants from transferring or in any way encumbering any of these properties. The respondents valued the suit for the purpose of partition at Rs. 10,000/- for injunction at Rs. 100/- and for accounting also at Rs. 100/- and paid the court-fee accordingly. Admittedly the valuation is not based on the value of the properties involved; and the manner how the valuation was done, was not indicated. The defendants filed objections stating that the Court-fee should have been paid according to the value of the properties and the suit was under-valued. Vide order dt. 14th June, 1982, the learned District Judge observed that there was nothing on record to show how the plaintiffs had valued the reliefs claimed, and called upon them to show the basis

of the valuation made. Thereafter, the plaintiffs made an application stating therein that in the law of the Court-fees as applicable to Sikkim, no basis or standard of valuing the reliefs as claimed in the suit, has been indicated and, therefore, the plaintiffs had the choice of putting their own valuation, and as such the Court-fees paid by them might be accepted as sufficient. Before any orders could be passed on this application, the Sikkim Court Fees (Exemption and Miscellaneous Provisions) Act, 1983 (hereinafter referred to as the Act of 1983) was enacted by the Sikkim Legislature, exempting under S. 3 the payment of Court-fees, by those whose annual income from all sources did not exceed Rupees twenty five thousand. Sub-sec. (3) of S. 1 provides : "This Act shall come into force from such date as the State" Government may, by notification in the Official Gazette appoint and different dates may be appointed for different provisions of this Act". In exercise of the powers conferred by sub-sec. (3) of S. 1, the State Government appointed the 1st day of May, 1983 as the date on which the provisions of the Act except S. 6 thereof would come into force, vide Notification No. 9/LD/1983/418 dt. 21st April, 1983 published in the Sikkim Government Gazette Extraordinary No. 60 Gangtok, Wednesday, April 27, 1983. Thus S. 3 of the aforesaid Act came into force with effect from 1st May, 1983. Thereafter, on 25th August, 1983, the mother and natural guardian of the minor-plaintiffs filed an affidavit stating therein that the income of the plaintiffs collectively and severally was less than Rs. 25,000/- per year and so they were exempt from paying court-fees, as per the provisions of the aforesaid Act. In his order dt. 26th December, 1983, the learned District Judge observed that the contents of the affidavit had not been challenged by the defendants and, therefore, it could be taken for granted that the plaintiffs were not required to pay Court-fees, in view of the provisions of the aforesaid Act, and so it was immaterial for all practical purposes as to whether the reliefs claimed in the suit were properly valued. It was also observed that the learned counsel appearing on behalf of the defendants had not been able to dispute this position. So, the learned District Judge accepted" the valuation put by the plaintiffs. Aggrieved, three of the defendants have come up in revision.

2. Shri Niladri Sarkar, Advocate appearing on behalf of the petitioners contends that the learned trial Court has erred in law in revising or reviewing his own order dt. 14th June, 1982 by his order dt. 26th December 1983, whereby the compliance of the order dt. 14th June, 1982, was not insisted upon. According to him, the learned trial Court ought to have him that the plaintiffs were bound to file the valuation statement in compliance of the order dt. 14th June, 1982. Further, his contention is that the Act of 1983 has no retrospective operation and so does not apply to the present matter. On the other hand, Shri C. R. Bhattacharjee, learned counsel appearing on behalf of the respondents, has taken a preliminary objection as to the maintainability of the I revision petition, stating that there is no jurisdictional error to entitle the petitioners to bring the petition, and has also defended the impugned order on merit by urging that the provisions of the Act of 1983 are fully applicable to the present case.

3. As regards the maintainability of the petition, S. 115 of the Civil P. C. was amended by the Civil P. C. (Amendment) Act, 1976 (104 of 1976) (hereinafter referred to as the Amendment Act of 1976) curtailing the High Court's power to entertain revisions, by the addition of a proviso to sub-sec. (1) and insertion of sub-sec. (2). The proviso states that the High Court shall not vary or reverse any order made, or any order deciding an issue, in the course of a suit or other proceeding, except (a) the order, if it had been made in favour of the party applying for revision, would have finally disposed of the suit or other proceeding or (b) the order, if allowed to stand, would occasion a failure of justice or cause irreparable injury to the party against whom it was made. The newly inserted sub-sec. (2) provides that the High Court shall not vary or reverse any decree or order against which an appeal lies either to the High Court or to any Court subordinate thereto. At first, j learned counsel for the parties commenced arguing, as if the principles of the Code of Civil P. C., as it stood in the year 1975, were applicable in Sikkim, and not the amended Code, since they were under the impression, as is the general impression prevailing amongst the lawyers in Sikkim, that the amended Code has not yet become operative in Sikkim. But when it was pointed out by the Court that the Amendment Act of 1976 had the effect of extending the amended Code to Sikkim, they made a request for a decision on this point, as it is of importance to the lawyers and litigants not only in the High Court but also in the subordinate Courts; even if the amendment did not have much bearing on the present case. Apart from the request of the learned counsel, it is necessary while deciding a petition under S. 115, to ascertain the dimensions of the revisional power and so to consider whether the restrictions imposed by the Amendment Act of 1976 are applicable in Sikkim, and, therefore, it is not only desirable but essential to decide this question.

4. Sikkim became a component State of the Indian Union by and under the Constitution (Thirty-sixth Amendment) Act, 1975, which inserted Art. 371-F in the Constitution. Clause (k) of that Article provides that all laws in force immediately before the appointed day (i.e. 26th day of April, 1975) in the territories comprised in the State of Sikkim or any part thereof; shall continue to be in force therein until amended or repealed by a competent Legislature or other competent authority. Clause (n) provides that the President may, by public notification, extend with such restrictions or modifications as he thinks fit to the State of Sikkim any enactment which is in force in a State at the date of the notification. Principles of the Code of Civil P. C. were followed by the Courts in Sikkim at the commencement of the Thirty-sixty Amendment and so these principles continued to be followed thereafter, as per provisions of Clause (k). It needs be emphasised that it were the principles of the Code which were applicable and not the whole Code in letter. General belief amongst the lawyers in Sikkim is that this state of law continues even after the Amendment Act of 1976 has come into force. Perhaps, the amendment effected in S. 1 of the Code has escaped notice. Prior to the amendment, sub-sec. (3) of S. 1, which is the extent clause, read as under :

(3) It extends to the whole of India except-

(a) the Tribal Areas of the State of Assam;

(b) save as hereinafter provided, the Scheduled Areas in the State of Madras;

(c) the State of Jammu and Kashmir;

Provided that Ss. 36 to 43 and O. 34 in the First Schedule shall extend also to the East Godavari, West Godavari and Visakhapatnam Agencies in the State of Andhra Pradesh and S. 48 shall extend also to the said Agencies.

By the Amendment Act, this was replaced as under :

(3) It extends to the whole of India except -

(a) the State of Jammu and Kashmir;

(b) the State of Nagaland and the tribal areas;

Provided that the State Government concerned may, by notification in the Official Gazette, extend the provisions of this Code or any of them to the whole or part of the State of Nagaland or such tribal areas, as the case may be, with such supplemental, incidental or consequential modifications as may be specified in the notification.

Explanation.- In this clause, "tribal areas" means the territories which immediately before the 21st day of January 1972, were included in the tribal areas of Assam as referred to in paragraph 20 of the Sixth Schedule to the Constitution.

5. Thus, by the Amendment Act, Parliament reiterated that the Civil P. C. applied to the whole of India except certain specified territories. Since this reiteration was done in respect of the whole of India except certain territories specified in the amended sub-sec. (3), the State of Sikkim not being excluded thereby, the Code undoubtedly became applicable in the State. It is true that a notification dt. 16-10-82 published in Sikkim Government Gazette, Extraordinary, dt. February 10, 1983 was issued by the President under Cl. (n) of Art. 371-F; but that undoubtedly was under the mistaken impression that the Code had not come in force in Sikkim, even though it had already become operative with effect from 1-2-77 by the Amendment Act of 1976. The notification provided that the Code would come into force on such date as the Central Government might, by notification in the Official Gazette, appoint; but no such date was ever notified. Therefore, the notification dt. 16-10-82 has remained ineffective and inconsequential. Had the date been notified, it is evident, it would be only subsequent to 16-10-82, which would be inconsistent with the factual position that the Code had already become operative with effect from 1-2-77, causing unnecessary confusion. Now, the true legal position is that, so far as the State of Sikkim is concerned, the Amendment Act of 1976 extended the Civil P. C., including the amendments effected thereby. It must, therefore, be held that the

Code of Civil P. C, as amended till date, is applicable in the State of Sikkim.

6. As to the maintainability of the petition, the High Court has the power to exercise jurisdiction, only if the subordinate Court appears (a) to have exercised a jurisdiction not vested in it by law, or (b) to have failed to exercise a jurisdiction so vested, or (c) to have acted in the exercise of its jurisdiction illegally or with material irregularity. As observed by the Supreme Court in *D.L.F., Housing and Construction Company (P.) Ltd., New Delhi Vs. Sarup Singh and Others*, , the position is firmly established that while exercising the jurisdiction under S. 115, it is not competent to the High Court to correct errors of fact however gross or even errors of law unless the said errors have relation to the jurisdiction of the Court to try the dispute itself. The words "illegally" and "with material irregularity" as used in cl. (c) also do not cover either errors of fact or of law; they do not refer to the decision arrived at but merely to the manner in which it is reached. The errors contemplated by this clause may relate either to breach of some provision of law or to material defects of procedure affecting the ultimate decision, and not to errors either of fact or of law, after the prescribed formalities have been complied with. In the present case, the grievance of the petitioners is that the Act of 1983 was applied retrospectively by the learned District Judge to a case instituted in the year 1979, and since, as according to the learned counsel, the Act did not have retrospective operation, the learned District Judge committed an error which should be corrected by this Court. Even if the contention raised on behalf of the petitioners is correct, there was merely an error of law, for the correction of which revision does not lie. Cls. (a) and (b) of S. 115 on their plain reading quite clearly do not cover the present case, since the learned District Judge had undoubtedly the jurisdiction to decide the question as to whether the aforesaid Act was applicable to the present case. There was no illegality or irregularity in the manner of the exercise of jurisdiction by the Court and as such the case is not covered under cl. (c) either. The learned counsel contends that once the learned District Judge had directed the plaintiffs to give tile basis of the valuation of the reliefs claimed, it was not open to him to waive compliance of that order and to hold that the valuation put by the plaintiffs was correct, and since this was done by the impugned order dt. 26th December, 1983, it amounted to a review or a revision of the earlier order by the learned District Judge which he had no power to do. It is evident that the order dt. 14th June, 1982 did not decide any dispute between the parties and was only a step in reaching the finding whether the valuation put by the plaintiffs was correct. When the mother of the plaintiffs filed an affidavit that no Court-fee was payable as per the Act of 1983, income of the plaintiffs being less than Rs. 25,000/- per year, it was the duty of the Court to decide that question and when the Court reached the decision that no Court-fee was payable by the plaintiffs, the Court had no alternative except to treat the matter closed. There is no substance in the argument advanced on behalf of the petitioners that once the order dt. 14th June, 1982 was passed, its compliance must have been insisted upon, whatever were the subsequent events, even if the compliance would be a futile exercise,

rather a teasing waste of time, energy and money. The order dt. 26-12-83 did not involve any review or revision of the order dt. 14-6-82. Indeed, this order lost its efficacy as a result of the decision dt. 26-12-83, on the point raised in the affidavit referred above. Once the valuation lost its relevance for the purpose of Court-fees, it did not remain relevant for any other purpose, such as jurisdictional, since the District Judge has unlimited pecuniary jurisdiction. Learned counsel for the petitioners referred to Arjun Singh Vs. Mohindra Kumar and Others, , which in paragraph 13 reads as under :

(13) It is needless to point out that interlocutory orders are of various kinds; some like orders of stay, injunction or receiver are designed to preserve the status quo pending the litigation and to ensure that the parties might not be prejudiced by the normal delay which the proceedings before the court usually take. They do not, in that sense, decide in any manner the merits of the controversy in issue in the suit and do not, of course, put an end to it even in part. Such orders are certainly capable of being altered or varied by subsequent applications for the same relief, though normally only on proof of new facts or new situations which subsequently emerge. As they do not impinge upon the legal rights of parties to the litigation the principle of *res judicata* does not apply to the findings on which these orders are based, though if applications were made for relief on the same basis after the same has once been disposed of the court would be justified in rejecting the same as an abuse of the process of Court. There are other orders which are also interlocutory, but would fall into a different category. The difference from the ones just now referred to lies in the fact that they are not directed to maintaining the status quo, or to preserve the property pending the final adjudication, but are designed to ensure the just, smooth, orderly and expeditious disposal of the suit. They are interlocutory in the sense that they do not decide any matter in issue arising in the suit, nor put an end to the litigation. The case of an application under O. IX, R. 7 would be an illustration of this type. If an application made under the provisions of that rule is dismissed and an appeal were filed against the decree in the suit in which such applications were made, there can be no doubt that the propriety of the order rejecting the reopening of the proceeding and the refusal to relegate the party to an earlier stage might be canvassed in the appeal and dealt with by the appellate court. In that sense, the refusal of the court to permit the defendant to "set the clock back" does not attain finality. But what we are concerned with is slightly different and that is whether the same Court is finally bound by that order at later stages, so as to preclude its being reconsidered. Even if the rule of *res judicata* does not apply, it would not follow that on every subsequent day on which the suit stands adjourned for further hearing, the petition could be repeated and fresh orders sought on the basis of identical facts. The principle that repeated applications based on the same facts and seeking the same reliefs might be disallowed by the Court does not however necessarily rest on the principle of *res judicata*. Thus if an application for the adjournment of a suit is rejected, a subsequent application for the same purpose even if based on the

same facts is not barred on the application of any rule of res judicata, but would be rejected for the same grounds on which the original application was refused. The principle underlying the distinction between the rule of res judicata and a rejection on the ground that no new facts have been adduced to justify a different order is vital. If the principle of res judicata is applicable to the decision on a particular issue of fact, even if fresh facts were placed before the Court, the bar would continue to operate and preclude a fresh investigation of the issues, whereas in the other case, on proof of fresh facts, the court would be competent, nay would be bound to take those into account and make an order conformably to the facts freshly brought before the Court.

7. I fail to appreciate how this authority helps the petitioners. Rather, it helps the respondents, since it clearly lays down that the Court is bound to take into account the fresh facts and make an order conformably to the facts freshly brought before the court. Reference was also made to *Y. B. Patil v. Y. L. Patil*, AIR 1977 SC 392, where it was held that once an order made in the course of a proceeding becomes final, it would be binding at the subsequent stage of that proceeding. Evidently, this authority is not applicable since the order dt. 14-6-82 did not decide any dispute and never became final.

8. Mention may also be made of the observations of the learned District Judge in the impugned order that the learned counsel for the petitioners did not dispute the position that as per the Act of 1983, and the income of the plaintiffs being less than Rs. 25,000/- per year, no Court-fee was payable by the plaintiffs and so it was immaterial for all practical purposes as to whether the reliefs claimed had been properly valued. Thus the petitioners did not dispute before the learned trial Court about the applicability of the aforesaid Act of 1983 to the present case. In a revision, parties are not to be allowed to take a point which could have been taken but was not taken in the subordinate Court.

9. Then, as pointed out by the Supreme Court in *Sri Ratnavaramaraja Vs. Smt. Vimla*, law of Court-fees was made to collect revenue for the benefit of the State and not to arm a contesting party with a weapon of defence to obstruct the trial of an action. Whether proper Court-fee is paid on a plaint is primarily a question between the plaintiff and the State. Therefore, the proviso to sub-sec. (1) to S. 115 of the Civil P. C. puts a bar in the exercise of the revisional jurisdiction of the High Court, since the nature of the impugned order is not such, as, if it had been made in favour of the petitioners, would have finally disposed of the suit, nor the order is one which, if allowed to stand, would occasion a failure of justice or cause irreparable injury to the petitioners. Even before the proviso was added by the Amendment Act, the Supreme Court had observed in the above referred decision in *Rathmavarmaraja* that the defendant who may believe and even honestly that proper Court-fee has not been paid by the plaintiff has still no right to move the superior Courts by appeal or in revision against the order adjudging payment of court-fee payable on the plaint, since, the question whether proper court-fee is paid on a plaint is primarily a question

between the plaintiff and the State.

10. The revision is also not maintainable under Art. 227 of the Constitution since, as pointed out by the Supreme Court in *Mohd. Yunus Vs. Mohd. Mustaqim and Others*, , the supervisory jurisdiction conferred on the High Courts under Art. 227 of the Constitution is limited to seeing that an inferior Court or Tribunal functions within the limits of its authority and not to correct an error apparent on the face of the record, much less an error of law. In exercising the supervisory power, the High Court does not act as an appellate court or tribunal. Thus the petition is not maintainable either under S. 115 of the Civil P. C. or under Art. 227 of the Constitution.

11. Since the revision petition is not maintainable, it is not necessary to enter into the merits, but in view of the importance of the law point on which full-dress arguments were advanced on both sides, it seems pre-eminently desirable to settle the legal position. Contention raised on behalf of the petitioners is that the Act of 1983 does not provide explicitly or by implication that the Act would have retrospective operation, and so it would not apply to cases which were pending when the Act came into force. In this connection reference was made to *Katikara Chintamani Dora and Others Vs. Guntreddi Annamanaidu and Others*, where relying on *Maxwell on Interpretation*, 12th Edn. 220, observation was made that ordinarily, when the substantive law is altered during the pendency of an action, rights of the parties are decided according to law, as it existed when the action was begun unless the new statute shows a clear intention to vary such rights. That is to say, in the absence of anything in the Act, to say that it is to have retrospective operation, it cannot be so construed as to have the effect of altering the law applicable to a claim in litigation at the time when the Act is passed. Wright, J. observed in *In re, Athlumney; Ex parte, Wilson* (1898) 2 QB 547 at PP. 551-552 :

Perhaps no rule of construction is more firmly established than this - that a retrospective operation is not to be given to a statute so as to impair an existing right or obligation, otherwise than as regards matter of procedure, unless that effect cannot be avoided without doing violence to the language of the enactment. If the enactment is expressed in language which is fairly capable of either interpretation, it ought to be construed as prospective only.

12. the primary principle of interpretation is, as observed in *Chief Justice of Andhra Pradesh and Others Vs. L.V.A. Dixitulu and Others*, , that; a "statutory provision should be construed "according to the intent of they that made it" (Coke). Normally, such intent is gathered from the language of the provision. If the language or the phraseology employed by the legislation is precise and plain and thus by itself, proclaims the legislative intent in unequivocal terms, the same must be given effect to, regardless of the consequences that may follow. But if the words used in the provision are imprecise, protean, or evocative or can reasonably been meaning more than one, the rule of strict grammatical construction ceases to be a sure guide to reach at the real legislative intent. In

such a case in order to ascertain the true meaning of the terms and phrases employed, it is legitimate for the Court to go beyond the a rid literal confines of the provision and to call in aid other wellrecognised rules of construction, such as its legislative history, the basic scheme and framework of the statute as a whole, each portion throwing light on the rest, the purpose of the legislation, the object sought to be achieved, and the consequences that may flow from the adoption of one in preference to the other possible interpretation". The Supreme Court observed in *Sree Bank Ltd. Vs. Sarkar Dutt Roy and Co.*, :

(38) It is not necessary for the retrospective operation of the provision of an Act that it must be stated that its provisions would be deemed to have always existed. That is one mode and may be an effective mode of providing that the provisions would have retrospective effect. Retrospective effect of an enactment can also be gathered from its language and the object and intent of the legislature in enacting it.

13. Section 3 of the Act of 1983 reads as under :

3. Notwithstanding anything contained in any law relating to the payment of court-fees, for the time being in force, no court-fees shall be payable by a person whose annual income from all sources does not exceed rupees twenty-five thousand.

It would appear that S. 3 begins with a non obstante clause and reveals it prominently that the whole intent and purpose of the provision is to give relief in the matter of payment of court-fee to the weaker sections of the society whose annual income does not exceed the prescribed limit. The expression "no court-fee shall be payable by a person" occurring in the section is of the widest amplitude expressing the legislative intent to cover every person whose income does not exceed the given limit and who may be asked to pay court-fee under any other provision of law. There is nothing in the language of the section to limit its benefit to those who bring an action after its enforcement. There seems to be no good reason why such a limitation be imposed. The intent is not to benefit a contesting party or to arm him with a weapon of defence to obstruct the trial of an action.

14-15. It is said that this is a retrospective construction because the action was brought before the statute came into operation; but the section does not say anything as to the time when the action is brought. An action brought before the statute came into operation is within the plain words of S.3, and it is necessary to distort the grammatical meaning of the words to arrive at the interpretation proposed on behalf of the petitioners.

16. Then the presumption against retrospective operation is only in respect of substantive law. On the other hand, there is a presumption of retrospective operation when the statute deals with procedure. Substantive law deals with a right and is fundamental while procedure is concerned with legal process involving action and remedies which Salmond defines "as that branch of law

which governs the process of litigation", or to put it in another way, substantive law is that which we enforce while procedure deals with rules by which we enforce it. Retrospective operation should not be given to a statute so as to take away or impair an existing right or create a new obligation or impose a new liability otherwise than as regards procedure, (Govind Das and Others Vs. The Income Tax Officer and Another,). But provisions of a statute dealing nearly with matters of procedure may properly, unless that construction be textually inadmissible, have retrospective effect. The Act of 1983 does not take away or impair an existing right nor does it create a new obligation or impose a new liability. It only seeks to amend the law of procedure by providing that no court-fee shall be payable in a given situation. As such, this is procedural. In this view I find support from *Parsurama v. Smt. Jaia* AIR 1967 Goa 120 where law of court fee was held to be procedural having retrospective effect. It was pointed out that the general principle is that an enactment is presumed to be prospective only and should not be interpreted as affecting vested rights and the presumption is still stronger in the case of a pending action, but, it seems that the principle is not applicable in the case of procedural laws. Further it was said, "Retroactive legislation is viewed with disfavour as a general rule and properly so because of its tendency to be unjust and oppressive. Indeed, there is a presumption that the legislature intends its enactment to be effective only "in futuro". The position, however, is different in so far as adjective or procedural laws are concerned".

17. Furthermore, the Supreme Court pointed out in *Sree Bank Ltd. Vs. Sarkar Dutt Roy and Co.*, that even the rule that a retrospective effect is not to be given to a statute so as to impair an existing right or obligation, otherwise than as regards procedure, is not invariable and that it is a sound principle in considering whether the intention was that the general rule should not be applied to look to the general scope and purview of the statute, and at the remedy sought to be applied, and consider what was the former state of the law and what it was that the legislature contemplated. Following observations in *Craies on Statute Law*, 6th Edn., at page 395 were quoted with approval:

If a statute is passed for the purpose of protecting the public against some evil or abuse, it may be allowed to operate retrospectively, although by such operation it will deprive some person or persons of a vested right.

18. In *R v. Vine*, (1875) 10 QB 195 the words "Every person convicted of felony shall for ever be disqualified from selling spirits by retail..... and if any person shall, after having been so convicted, take out or have any licence to sell spirits by retail, the same shall be void to all intents and purposes" were applied to a person who had been convicted of felony before the Act was passed though by doing so vested rights were affected. Mellor, J. observed (pp. 200-201), "It appears to me to be the general object of this statute that there should be restraints as to the persons who should be qualified to hold licences, not as a punishment, but for the public good, upon the ground of character..... A man convicted before the Act passed is quite as much tainted as a man convicted

after; and it appears to me not only the possible but the natural interpretation of the section that any one convicted of felony shall be ipso facto disqualified, and the licences, if granted, void".

Again, it was observed in *Mahadeolal Kanodia Vs. The Administrator-general of West Bengal*, (para 8) :

If in any legislation, the general object of which is to benefit a particular class of persons, any provision is ambiguous so that it is capable of two meanings, one which would preserve the benefit and another which would take it away, the meaning which preserves it should be adopted.

Following observations in para 1 in *State of Punjab (Now Haryana) and Others Vs. Amar Singh and Another*, are also pertinent:

We have to bear in mind the activist though inarticulate, major premise of statutory construction that the rule or law must run close to the rule of life and the Court must read into an enactment, language permitting, that meaning which promotes the benignant intent of the legislation in preference to the one which perverts the scheme of the statute on imputed legislative presumptions and assumed social values valid in a prior era. An aware Court, informed of this adaptation in the rules of forensic interpretation, hesitates to nullify the plain object of a land reforms law unless compelled by its language, and the crux of this case is just that accent when double possibilities in the chemistry of construction crop up.

19. The Act of 1983 is a piece of benevolent legislation and must be given a meaning which promotes the benignant intent of the legislature in preference to the one which purports to stultify it. Besides, the restricted interpretation must result in the inevitable consequence that the persons like the plaintiffs would find themselves compelled to withdraw their present suit and bring a fresh action, this course being open to them since for the reliefs of partition etc., which they have claimed, the bar of limitation would not come their way. This would only mean multiplicity of proceedings and unnecessary avoidable exercise; and it may safely be assumed that the Legislature could not have intended such a result. Therefore, it must be held that the exemption would apply to every one who might be required to pay court-fees, irrespective of whether the action was brought before or after the commencement of S. 3, provided that the income of the person concerned did not exceed Rs. 25,000/- per annum.

20. In the result, the revision is dismissed with costs. Counsel fee is assessed at Rs. 200/-. Parties shall appear before the learned trial Court on 10-9-1984, on which date the defendants shall file their written statement. The case being an old one, having been instituted in March, 1979, I trust that the trial shall proceed expeditiously.

Revision dismissed.