

(1997) 06 MP CK 0021
In the Madhya Pradesh High Court
Case No : C.R. No. 885 of 1996

Pandit Gopalkrishna Sharma

APPELLANT

Vs

Pandit Bhagirath Prasad Sharma and Others

RESPONDENT

Date of Decision : 09-06-1997

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115
Madhya Pradesh Civil Courts Act, 1958 — Section 6

Citation : (1997) 2 MPLJ 586

Hon'ble Judges : Shravan Shanker Jha, J

Bench : Single Bench

Advocate : Ashok Valankar, for the Appellant; R.A. Roman, for the Respondent

Judgement

S.S. Jha, J.

The Order in this revision shall also govern the disposal of Civil Revision No. 1518 of 1996, Omprakash Paliwal v. Devmurti Shri Janki Vallabh Ji Maharaj Virajman Shri Jankivallabh Mandir.

This is a revision u/s 115 of the CPC raising a question of jurisdiction of the trial Court, i.e., Court of Additional District Judge, Gwalior.

Learned Counsel for the applicant submitted that in view of the amendment in Section 6 of the Madhya Pradesh Civil Courts Act, 1958 (hereinafter referred to as the Act"), vide Amendment Act No. 5 of 1994, pecuniary jurisdiction to try the suit is not vested with the trial Court. Learned Counsel for the applicant submitted that earlier all the suits, above Rs. 20,000/-, were tried by the Court of District Judge. After the amendment, the pecuniary jurisdiction of Civil Judge Class-1 is increased from Rs. 20,000/- to Rs. 50,000/-. The suit pending before the Additional District Judge, Gwalior is valued below Rs. 50,000/-. Learned Counsel submitted that after the amending Act the Additional District Judge has no pecuniary jurisdiction to decide the dispute.

To appreciate this controversy the provision of Amending Act is reproduced below:

In Sub-section (1) of Section 6 of the Madhya Pradesh Civil Courts (Amendment) Act, 1994.

(1) in Clause (a) for the word and figure "Rs. 10,000" the word and figure "Rupees 25,000" shall be substituted;

(ii) in Clause (b) for the word and figure "Rs. 20,000" the word and figure "Rupees 50,000" shall be substituted;

Section 6 of the Act, prior to amendment, is also reproduced below:

Original jurisdiction of Civil Courts. - (1) Subject to the provisions of any law for the time being in force,-

(a) the Court of the (Civil Judge Class II) shall have jurisdiction to hear and determine any suit or original proceeding of a value not exceeding Rs. 10,000;

(b) the Court of the (Civil Judge Class I) shall have jurisdiction to hear and determine any suit or original proceeding of a value not exceeding Rs. 20,000;

(c) the Court of the District Judge and the Court of the Additional District Judge shall have jurisdiction to hear and determine any suit or original proceeding without restriction as regards value.

(2) The local limits of the jurisdiction of the Courts specified in Clauses (a) and (b) of Sub-section (1), shall be such as the State Government may, by notification,

(3) "Nothing in Clauses (a), (b) and (c) of Sub-section (1) shall affect any suit or original proceeding instituted before 26th January, 1979".

Subsequently, by the amending Act No. 14 of 1996 the words "Court of Additional District Judge" in Clause (c) of Section 6 were deleted.

From going through the amendment, provision of Clause (c) of Section 6 is not amended. Under Clause (c) of Section 6 the Court of District Judge has jurisdiction to hear and determine any suit or original proceeding without restriction as regards value.

From bare reading of Section 6(c), it is apparent that District Judge or Additional District Judge has pecuniary jurisdiction to hear and decide any suit or proceeding without restriction as regards value. From bare reading it is apparent that the Additional District Judge has pecuniary jurisdiction to try the suit pending before it. Sub-section (2) of Section 6 of the Act provides for notification by the State Government in respect of local limits of jurisdiction of the Courts specified in Clauses (a) and (b) of Sub-section (1) of Section 6. Thus, the power of State Government is also limited to confer pecuniary jurisdiction in respect of the Courts specified in Clauses (a) and (b) of Sub-section (1) of Section 6 of the Act. Section 7(2) of the Act provides that Additional District Judge shall discharge any of the functions of the District Judge, therefore, the Additional District Judge is empowered to perform the functions of District Judge.

Learned Counsel for the applicant submitted that amendment in procedural law is always retrospective. Since the amendment is retrospective, it was the duty of the trial Court to return the plaint for presentation to the proper Court having pecuniary jurisdiction to decide the suit. Learned Counsel submitted that u/s 15 of the CPC the suit is to be instituted in the Court of lowest grade competent to try it. Since the Court of lowest grade competent to try the suit is Civil Judge Class-1, the Additional District Judge has no jurisdiction to decide the suit. Learned Counsel for the applicant referred number of authorities to demonstrate that the amendment in procedural law is always retrospective.

The contention of the learned Counsel for the applicant is correct that generally amendment in the procedural law is retrospective unless saved by Repeal or Saving clause. In the present case, there is no Repeal or Saving clause.

The question now arises for determination whether the Court where the suit was filed is competent to try and decide the suit. From the provision of Clause (c) of Section 6 of the Act, the Court has jurisdiction to decide the suit. The date on which the suit was instituted, it was instituted in the Court of lowest grade competent to try the suit. In the amending Act it is not provided that the suits above pecuniary jurisdiction of Rs. 50,000/- alone shall be tried by the Court of District Judge or Additional District Judge. On the contrary, Sub-clause (c) of Section 6 of the Act is not amended. Therefore, by virtue of the amendment in the Act the powers of the Court of District Judge are not varied. Clause (c) of Section 6 exists as it existed on the date of filing of the suit. The intention of Legislature can be drawn only from the Repeal or Saving clause, but Legislature was silent in respect of pending suits and Legislature has also not provided that the pecuniary jurisdiction of the District Judge shall only be for the suits which are valued at Rs. 50,000/- or above. Even if the provision of retrospective operation is applied, then also the provision of Clause (c) of Section 6 empowers District Judge or Additional District Judge to hear and decide the suits of any value.

From the aforesaid discussion, it is apparent that the Court has jurisdiction to decide the suit. The powers u/s 115 of the CPC can only be invoked if the Court has no jurisdiction to decide the suit but Clause (c) of Section 6 empowers the trial Court to hear and decide the suit of any value.

Since the Court has jurisdiction to decide the dispute, no interference can be made in this revision. Section 115 of the CPC provides for the interference by the High Court in the order when 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;

then only High Court may make such order as it thinks fit. The proviso further

states that no order under this section shall be varied or reversed in the course of a suit or other proceeding, except where -

(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.

None of the aforesaid grounds are available for interference with the order passed by the trial Court. The order does not call for interference under the limited scope of Section 115 of the Code of Civil Procedure. It is apparent that the trial Court has jurisdiction to decide the dispute and it has not acted in exercise of its jurisdiction illegally or with material irregularity. The order shall not occasion in failure of justice or cause irreparable injury to applicant.

In the result, the order passed by the trial Court does not call for any interference. The revision has no merits and is dismissed. There shall be no orders as to costs.