
(1985) 01 P&H CK 0103
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 2133 of 1984

Paramjit Singh and Another	Vs	APPELLANT
Balwinder Kaur		RESPONDENT

Date of Decision : 09-01-1985

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 20 Rule 9, Order 7 Rule 3, 115, 16
Land Acquisition Act, 1894 — Section 30

Citation : AIR 1985 P&H 255

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

Bench : Single Bench

Judgement

1. Challenged in revision here is the wholly erroneous order of the trial Court denying the defendants' prayer for further and better particulars of the property in suit in respect of which the relief claimed was sought.

2. On the face of it the frame of the suit is vague and indefinite. The suit pertains not only to movable but also Immovable property, of which no particulars have been set out to enable it to be identified. Besides seeking a declaration that the plaintiff was the owner of the moveable property specified in the annexure to the plaint (which was valued at Rs. 950/-), a further declaration was sought that the plaintiff was also the owner in possession of all other properties left by Bakhtawar Singh. In the alternative, a permanent injunction was asked for to restrain the defendants from interfering with the aforesaid properties or claiming any right therein. It is pertinent to note that the "other properties left by Bakhtawar Singh" were situated in places beyond the local jurisdiction of the trial Court, namely; in village Pharwala, Goraya and Dhubewal. This was so mentioned in the plaint itself.

3. As is well-known, the general rule is that the Courts have no jurisdiction to adjudicate upon any rights or interest in property lying outside their local jurisdiction. In this behalf S. 16 of the CPC (hereinafter referred to as "the Code") specifically provides that suits for the determination of rights and interest

in Immovable property shall be instituted in the Court, within the local limits of whose jurisdiction the property is situate. There are then the provisions of O. 7 R. 3 of the Code, which require the plaint to contain a description of the immovable property in suit sufficient to identify it, as also those of O. 20, R. 9 of the Code which similarly require the decree to specify the Immovable property in suit.

4. A bare reading of the plaint would show that it contains no such particulars of the Immovable property in suit, as could enable it to be identified. Non-compliance with the provisions of O. 7, R. 3 of the Code is thus writ large. This in turn would render it impossible for the Court to draw up a decree which could satisfy the requirements of O. 20, R. 9 of the Code.

5. Furnishing of sufficient particulars of material facts, which include the relief sought, is the legitimate duty of the opponent. The Court is indeed duty bound to lend its assistance to ensure that the opposite party knows the case it has to meet, as also the nature and scope of the relief claimed. Denial here can lead to failure of justice which, undoubtedly, cannot be countenanced.

6. Further, it is the duty of the Court to pass only such decree as can be executed with clarity and without confusion. Where the relief asked for is vague, as in this case, it is indeed incumbent upon the Court itself to call upon the plaintiff to furnish the necessary particulars to remove such vagueness.

7. There can thus be no escape from the conclusion that the trial Court acted with material irregularity in turning down the request of the defendants for further and better particulars of the property in suit. Such particulars were indeed called for, not only to enable the defendants to defend the suit, but for the Court too, to know of its jurisdiction to try the suit, as also to enable it to pass a proper decree.

8. Faced with this situation, Mr. Suresh Amba, counsel for the plaintiff, rightly made no attempt to support or justify the impugned order but sought instead to render it immune from attack on the plea that no revision was competent and the Court was thus precluded from interfering with the order under challenge. The argument being that the impugned order was merely a wrong order but not one without jurisdiction, and, therefore, the provisions of S. 115 of the Code could not be invoked to set it aside. Cited in support here was the judgment of the High Court of Calcutta in Ralyaram Melaram, a Firm and Another Vs. Kaluram Agarwalla and Others, , where it was held that a wrong decision on the question whether in the circumstances certain particulars should be ordered or not had nothing whatsoever to do with jurisdiction and could not, therefore, be revised under S. 115 of the Code. Reliance was also placed upon two judgments of the Supreme Court. The first being D.L.F., Housing and Construction Company (P.) Ltd., New Delhi Vs. Sarup Singh and Others, . The lower Court here had stayed proceedings under S. 30 of the Land Acquisition Act pending decision of a suit for specific performance, on the ground that the entire matter relating to

apportionment of compensation was covered by that suit. It was held that merely because the High Court would have felt inclined, had it dealt with the matter initially, to come to a different conclusion on the question on continuing stay of the reference proceedings, pending decision of the suit, the impugned order could hardly justify interference in revision u/s 115 of the Code. In holding so, the Court observed (at p. 2327):--

"The position thus seems to be 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 other case cited was The Managing Director (MIG) Hindustan Aeronautics Ltd. and Another, Balanagar Vs. Ajit Prasad Tarway, , where it was held that the High Court had no jurisdiction to interfere in revision with an order relating to an interim injunction granted by the lower Court in a pending suit, as the Subordinate Court in passing such an order had not exercised its jurisdiction illegally or with material irregularity.

9. There can certainly be no conflict with the position in law, as set out in the rulings cited, but considered in the context of the facts and circumstances of the case here, the impugned order cannot but be treated as one affecting the very jurisdiction of the Court to try the present suit as also the grant of proper relief. Section 115 of the Code was enacted specifically with a view to enable the High Court to correct errors of jurisdiction committed by the Subordinate Courts. The present is obviously a case of this kind. There is thus no bar to the jurisdiction of this Court to interfere in revision with the impugned order, which is accordingly hereby set aside. As a consequence thereof the application of the defendants for further and better particulars must be allowed. The trial Court is directed to thereafter proceed with the suit in accordance with law.

10. The petitioners shall be entitled to costs of this petition. Counsel's fee Rs. 500/-.

11. Order accordingly.