

(1990) 01 KL CK 0006
In the High Court Of Kerala
Case No : C.R.P. No. 233 of 1990 A

P.C. Zachariah

APPELLANT

Vs

The State of Kerala and Others

RESPONDENT

Date of Decision : 30-01-1990

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 20 Rule 6A, Order 20 Rule 6A(2), Order 41 Rule 1, 151

Citation : (1990) 01 KL CK 0006

Hon'ble Judges : Radhakrishna Menon, J

Bench : Single Bench

Advocate : V.P. Mohankumar and Prabha Pillai, for the Appellant; Thomas Varkey, Govt. Pleader, for the Respondent

Final Decision : Allowed

Judgement

Radhakrishna Menon, J.—The learned Government Pleader takes notice on behalf of the Respondents.

2. The application of the Petitioner under Order 20, Rule 6A CPC for a certificate as indicated in Clause (2) thereof, stands dismissed by the order under challenge. According to the Court below the application is premature.

3. The statements made in the petition, which stands dismissed by the order under challenge, would show that unless the induction, which was in force during the pendency of the suit, was not continued at least until such time the appellate Court passed such interim orders, it was not unlikely that the Defendants might commit waste/damages to the property, the learned Counsel for the Petitioner submits. There is considerable force in this submission.

4. Has the Court, in such circumstances the power to pass any interim orders maintaining the status quo that existed prior to the judgment, is the question, arising for consideration in this revision. We may have, in this connection, to consider the content of Order 20, Rule 6A and also Section 151 Code of Civil

Procedure.

5. I shall now reproduce Order 20, Rule 6A (leaving out unnecessary parts).

6A. Last paragraph of judgment to indicate in precise terms the reliefs granted.-

(1) The last paragraph of the judgment shall state in precise terms the relief which has been granted by such judgment.

(2) Every endeavour shall be made to ensure that the decree is drawn up as expeditiously as possible and, in any case, within fifteen days from the date on which the judgment is pronounced; but where the decree is not drawn up within the time aforesaid, the Court shall if requested so to do by a party desirous of appealing against the decree, certify that the decree has not been drawn up and indicate in the certificate the reasons for the delay, and thereupon-

(a) an appeal may be preferred against the decree without filing a copy of the decree and in such a case the last paragraph of the judgment shall, for the purposes of Rule 1 of Order XLI, be treated as the decree;....

The words employed in this Rule make it clear that the last paragraph of the judgment shall state in precise terms the reliefs granted by the judgment. It further provides that the Court shall make every endeavour to ensure that the decree is drawn up expeditiously, in any event, within fifteen days from the date on which the judgment is pronounced. These provisions, to my mind, have been enacted with a view to enable the defeated party to the suit to file an appeal challenging the decree urgently and move the appellate Court for appropriate interim orders setting at naught the effect of the decree till the disposal of appeal. Per chance the decree is not drawn up within the specified period, what is to happen? Does that mean, the defeated party shall not file the appeal urgently and move for appropriate interim orders? It is to meet such a contingency, to my mind, the legislature has enacted the second limb of Clause (2) of Rule 6A. In such a contingency the Court is bound to give the party the certificate made mention of in Clause (2) of the rule provided, such party by an application make a request to draw the decree within the stipulated period. With that certificate the party can file the appeal.

6. An incidental question however, would arise; Has the Court which has to draw up the decree the power to pass any interim order directing maintenance of status quo as it existed prior to the passing of the decree during the pendency of the application of the party for the certificate. This rule, as already noted, is enacted with the object of enabling the defeated party to a suit to file an appeal against the decree urgently and move the appellate Court for appropriate interim orders. This object sought to be achieved, would get frustrated unless the Court which passed the decree has the requisite power to stay the operation of the decree until such time, the aggrieved party to the appeal and moves the appellate Court for appropriate interim orders. But there no provision in the Code conferring such a power on the Court. Does that mean that the Court under such circumstances has no power to issue appropriate interim orders?; or, are we to

understand that the Court shall remain a mute witness or silent spectator of the situation brought about by the decree? In my view, in such circumstances, the Court in exercise of its inherent power, recognised u/s 151 Code of Civil Procedure, can pass appropriate interim orders for a specified period. This section, it should be remembered, has been enacted with the avowed object of reminding Courts the need to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court. (See the decision of the Supreme Court in *Manohar Lal Chopra Vs. Rai Bahadur Rao Raja Seth Hiralal*, . The Court, therefore has the inherent jurisdiction to issue appropriate interim orders for a specified period, like suspending the judgment and decree, granting temporary injunction or interim stay etc.

7. Coming to the case on hand: That the Petitioner has made an application for the certificate made mention of in the rule is beyond dispute. The same stands dismissed by the order which reads:

Since there is no delay in writing the decree this petition is premature under Order 20, Rule 6A(2) Code of Civil Procedure. Hence returned.

8. From the facts available on record it should be said that this is a pre-eminently fit case where the interim injunction, which was in force till the date of the judgment, shall continue till the date on which the Petitioner is provided with a copy of the certificate made mention of in Clause (2) of Rule 6A of Order 20 CPC enabling him to file the appeal urgently and obtain appropriate interim orders, and a week thereafter. The interim order that the trial Court would pass, shall however, be only for a reasonable period that is required for the party to approach the appellate Court and obtain appropriate interim orders.

9. There will therefore be an interim injunction restraining the Respondents from committing waste in the property for the period mentioned in the preceding paragraph. The petition under Order 20 Rule 6A accordingly is remitted to the Court below for a de novo consideration. The Court below shall dispose of the petition in accordance with law.

The C.R.P. is allowed to the extent indicated above.