

(1950) 10 BOM CK 0009

In the Bombay High Court

Case No : Civil Revision Application No. 336 of 1950 & Civil Revision Application No. 336 of 1950

Prabhat Film Co. Ltd.

APPELLANT

Vs

Anant Vishnu Damle

RESPONDENT

Date of Decision : 18-10-1950

Acts Referred:

Companies Act, 1913 — Section 3

Citation : AIR 1951 Bom 282 : (1951) 53 BOMLR 106

Hon'ble Judges : Chagla, C.J

Bench : Single Bench

Advocate : G.V. Gokhale, for Gokhale and Kale Co, for the Appellant; K.S. Rele, for Khanderao Laud and Co., for the Respondent

Judgement

Chagla, C.J.—A petn. for winding up the Prabhat Film Co., Ltd, which is the appots. before me, was presented before the Dist. J. of Poona & an objection was taken on behalf of the appct. that the Dist. Ct. had no jurisdiction to entertain the petn. The learned Dist. J. held that he had such jurisdiction & it is from that order that this revn. appln is preferred.

2. Section 3, Companies Act, confers jurisdiction upon the H. C. in respect of company matters, but there is a proviso to that section which lays down :

"That the Central Government may, by notification in the Official Gazette and subject to such restrictions and conditions as it thinks fit, empower any District Court to exercise all or any of the jurisdiction by this Act conferred upon the Court, and in that case such District Court shall, as regards the jurisdiction so conferred, be the Court in respect of all companies having their registered offices in the district."

It was urged before the Dist. Ct. J. that the notification was issued in 1916 by the Local Govt. It was only in 1935 that the Central Govt. was substituted for the Local Govt., & the contention was that as no notification was issued by the

Central Govt. after 1935 the jurisdiction conferred by the notification issued in 1916 by the Local Govt. had lapsed & the Dist. Ct. had no jurisdiction. That argument was rejected by the learned Dist. J. & it has not been pressed before me. What has now been urged is that the proviso to Section 8 itself is bad on the ground that it constitutes delegated legislation. What is urged is that the Central Legislature has delegated to the Local or the Central Govt. its own legislative function to confer jurisdiction upon Cts. & it is further urged that by this proviso it is left to the Govt. either Central or Local to confer jurisdiction upon the Dist. Ct.

3. In support of this contention, reliance is placed on a recent decision of this Ct. reported in *Narottamdas Jethabhai Vs. Aloysious Pinto Phillips*, . There we were considering Sections 3 & 4, Bombay City Civil Court Act, 1948, & we held that Section 4 of that Act was invalid & of no effects it conferred upon the Provincial Govt. the power to invest the Bombay City Civil Court with jurisdiction to try claim, exceeding Rs. 10,000 in value. It is clear from that judgment that we contrasted Sections 3 & 4 of that Act. Section 3 set up the City Civil Court & it left it to the Provincial Govt. to determine the time when that Ct. should come into existence, & when the Govt. determined the time it had to issue a notification which would empower that Ct. to function. We held that the Legislature had exercised its judgment & volition in bringing that Ct. into existence. But that was a Ct. with a certain limited jurisdiction. Then we held that Section 4 indicated that the Legislature had not applied its mind & judgment to the question of the Ct. having an increased jurisdiction up to Rs. 25,000 & it was left to the executive to decide whether the City Civil Court should have the increased jurisdiction or not. It was on that ground that we held Section 4 to be bad.

4. Now, when we turn to the proviso to Section 3, it is clear to my mind that the Legislature has applied its mind to the question as to whether the Dist. Ct. should have the same jurisdiction that the H. C. has with regard to company matters. Having applied its mind, it has come to the conclusion that the Dist. Ct. should be the Ct. which within its own jurisdiction should exercise jurisdiction under the Companies Act. But it has left it to the Central or the Local Govt. to empower the Dist. Ct. with that jurisdiction at such time as it may decide to issue a notification. Therefore, having exercised its mind & judgment, it has left it to the Govt. to decide the point of time when the Dist. Ct. should be empowered to exercise jurisdiction under the Companies Act. Therefore the policy of investing the Dist. Ct. with jurisdiction under the Companies Act has been laid down by the Legislature. The carrying out of that policy has been left to the executive & it is left to the executive in the sense that that policy should become effective at a time when the executive issues a notification. In my opinion, this does not constitute delegated legislation. Therefore the proviso to Section 3 is valid & the Dist. Ct. of Poona has jurisdiction to entertain this petn.

5. The result is that the revn. appln. fails & the rule is discharged with costs. I

direct that the learned Dist. J. will dispose of this petn. as expeditiously as possible.