
(1996) 03 MP CK 0078
In the Madhya Pradesh High Court
Case No : C.R. No. 105 of 1991 (J)

Punjab National Bank

APPELLANT

Vs

Maqbool Ahmad Qureshi

RESPONDENT

Date of Decision : 12-03-1996

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115

Citation : (1996) 2 MPJR 58

Hon'ble Judges : S.C. Pandey, J

Bench : Single Bench

Advocate : J.P. Sanghi, for the Appellant;

Judgement

S.C. Pandey, J.

This revision u/s 115 of the CPC is directed against the order dated 23.1.91, passed by Shri M.A. Minz, IIIrd Addl. Judge to the Court of District Judge, Jabalpur in Civil Suit No. 24-A/1989.

The applicant/plaintiff had tiled a suit for recovery of Rs. 82,016.70 p. against the non-applicant on 2d.4.89. The plaint in the case was filed in English. After service of summons, it is alleged by the applicant that on 17.7.90, an application was made by the counsel for the non-applicants in English to supply the copy of the statement of account in Hindi which was accordingly supplied. Thereafter on 23.1.1991, the counsel for the non-applicants, filed an application u/s 137 of C. P. C. requiring the applicant to give a translated copy of the plaint in Hindi. This application too was signed by the counsel for the non-applicants in English. The application filed by the counsel for the non-applicants in the court below was opposed by the applicant on the ground that the application u/s 137 of the C. P. C. was filed with a view to avoid filing of the written statement and, their defence was liable to be struck off under the provisions of Order 8, Rule 10 of C. P. C. The trial Court has rejected the application and directed the applicant to supply a translated copy of the plaint in Hindi.

The proviso to Section 115 of C. P. C. requires that Court must also come to the conclusion that the impugned order had occasioned failing of justice. I do not find that it is necessary to issue notice and interfere with the order passed by the Court below.

However, the learned counsel for the applicant urged that this court must clarify the legal position because the Banks usually draft their plaint in English and filing of plaint in English is not barred.

It is, therefore, necessary to clarify the legal position for the guidance of the civil courts. This Court had occasioned to consider the points raised by the learned counsel for the applicant in Civil Revision No. 1262/1978, decided on 7.12.79 wherein it was pointed out that the trial Court had relied on notification No. 459(1- F. "N. 7 (a) 5-76-B-XXI, dated 26.11.76, issued by the State Government that from 26th January 1977 Hindi shall be the language of all Courts subordinate to the High Court and that the application to the proceedings in such Courts shall be written in Deonagari script. Considering that notification, this Court observed that sub-section (2) of Section 137 of C. P. C. permits the State Govt, to make a declaration as to what shall be the language of any such Court, However, sub-section (3) of Section 137 of C. P. C. provides that where the Code requires or allows anything other than recording of the evidence to be done in writing, such writing may be in English. It further provides that in case the opposite party or the pleader is not acquainted with the English language, a translation into the language of the Court, at his request, may be supplied. The language of sub-section (3) shows that it has an over-riding effect over the notification issued by the State Government under sub-section (2) and that except recording of evidence, the pleadings and applications under the Code may be in English language subject to a translation being supplied to the other side when necessary. It was also pointed out that proviso to article 345, Constitution, of India also states that until the State Legislature otherwise provided by law, the English language shall continue to be used for those official purposes for which it was being used immediately before the commencement of the Constitution. English was the language which was used immediately before the commencement of the Constitution for instituting suits by filing the plaints. The legislature of this State has not so far expressly provided that any other language will be used for writing the plaint. Therefore, except for recording evidence before the subordinate Courts, English may be used as language for anything required to be done or allowed to be done by the Code of Civil Procedure. This case has been short noted in Purshottamdas v. Sunder Soap Works. 1980 1 M.P.W.N. 156.

This Court also relied on earlier decisions reported in L.M. Wakhare Vs. The State, and Dayabhai Poonambhai and Another Vs. Natwarlal Sombhai Talati and Others, .

Therefore, it is clear that the Court below cannot reject the plain, filed in English language. However, it is incumbent upon the plaintiff to supply a translation of

the plaint in Hindi, if the opposite party or the counsel demands it for lack of knowledge of English.

The grievance of the counsel for the applicant is that the counsel appearing for the non-applicants had himself filed an application in English himself and thus he was acquainted with English language. Therefore, the demand on his part that copy of the plaint should be translated into Hindi was unreasonable and the Court below should not have allowed the application. Since this Court has already decided not to interfere with the order of the Court, the applicant is bound to supply the copy of the plaint in Hindi.

It is further observed that sometimes a party to a suit may, in order to prolong the litigation, make a demand and, therefore, the trial Court should in each and every case judge whether demand for a copy of the translation of the plaint or any other application is genuine or malafide. If the trial Court comes to conclusion that such a demand is not genuine, but was made merely with a view to drag the litigation, the trial Court should be free to reject such frivolous application.

With these observations, this revision is disposed of.