

(1985) 11 MAD CK 0016

In the Madras High Court

Case No : Civil Revision Petition No. 1059 of 1984

R. Venkataswami Naidu

APPELLANT

Vs

South India Viscose Ltd., Coimbatore

RESPONDENT

Date of Decision : 08-11-1985

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 21, 9

Citation : AIR 1985 Mad 257 : (1986) 60 CompCas 142

Hon'ble Judges : Ratnam, J

Bench : Single Bench

Advocate : M.R. Narayanasami, for K. Venugopal, for the Appellant; S. Govindswaminath, for King and Patridge, for the Respondent

Judgement

1. The plaintiff in O.S. No. 2017 of 1983, District Munsif's Court, Coimbatore, is the petitioner in this Civil Revision Petition. In the respondent-

company, with which the petitioner appears to have been associated since its inception, he holds two shares. Prior to 29-9-1983, the petitioner

was one of its Directors. The Twenty-fifth Annual General Meeting of the respondent-company was scheduled to be held on 29-9-1983 at 11.30

am. Item 2 in the agenda for that meeting related to the appointment of a Director in the place of the petitioner, who retired by rotation and was

eligible to offer himself for re-appointment. The annual report of the company and the notice of the Twenty-fifth Annual General Meeting were sent

to all the shareholders of the 6drapany well in advance. While matters stood thus, on 28-9-1983, one P. J. Joseph, who held two shares in the

respondent company instituted S.C. Suit No. 5658 of 1983 before the City Civil Court, Bombay, against the respondent-company, the petitioner

herein as well as other Directors and obtained an ad interim injunction

restraining the respondent company and its Directors from holding the Twenty-fifth Annual General Meeting of the Company on 29-9-1983. It further appears that the plaintiff in S.C. Suit No. 5658 of 1983, City Civil Court, Bombay, reached Coimbatore in the morning of 29-9-1983 and served the order of ad interim injunction on the petitioner in his house at about 11 a.m. and thereafter proceeded to the place where the Twenty fifth Annual General Meeting of the respondent-company was scheduled to be held and informed the Chairman and Secretary of the company at about 11.20 am. about the ad interim injunction order passed by the City Civil Court at Bombay and also served the order of ad interim injunction on the Secretary of the company and the Chairman for the meeting, Mr. Desai. Though it is claimed that thereafter there was some discussion as well as protests, the Twenty-fifth Annual General Meeting of the company went, on as scheduled and certain resolutions were passed. In so far as the petitioner was concerned, his reappointment as a director of the company was also considered and the resolution in that regard was declared as lost, as 2,90,732 votes were cast against the reappointment. of the petitioner, while 1,807 votes alone were cast in his favour. The result was, the petitioner ceased to be a Director of the respondent company and was not re-appointed and the resolution of the company to that effect was also communicated to the petitioner. Subsequently, on 7-10-1983, the petitioner instituted O.S. No. 2017 of 1983, District Munsif's Court, Coimbatore, praying for a declaration that the Twenty-fifth Annual General Meeting of the respondent-company held on 29-9-1983 at 11.30 a.m. in contravention of the order of ad interim injunction passed by the City Civil Court at Bombay in S.C. Suit No. 5658 of 1983 is illegal and for a permanent injunction restraining the respondent- company from implementing the resolutions passed at that meeting and also from interfering with the rights of the petitioner from functioning as a Director of the respondent- company and other incidental reliefs. In I.A. No. 2487 of 1983 in O.S. No. 2017 of 1983, the petitioner prayed for an ad interim injunction restraining the respondent-company from implementing the resolutions passed at the Twenty-fifth Annual General Meeting held on 29-9-1983 and from holding any meeting of the Board of Directors without the participation of the petitioner therein. The main ground urged by the

petitioner in that application was that the proceedings of the Twenty-fifth Annual General Meeting were held in violation of the order of ad interim

injunction passed by a competent Court and all its proceedings were illegal and he was entitled to continue to be a Director in the respondent-

company.

2. On 7-10-1983, the learned District Munsif, Coimbatore, granted an ad interim injunction and ordered notice on the injunction application

returnable by 7-11-1983. Subsequently, it was realised that a caveat had already been lodged by the respondent company, which was also in

force and when that was brought to the notice of the Court, the order of ad interim injunction passed by it earlier was re-called and only notice was

ordered on the injunction application returnable by 7-11-1983. Thereafter, the respondent-company filed its counter.

3. In the counter filed by the company, it raised an objection regarding the maintainability of the suit as well as the application for injunction on the

ground that the reliefs prayed for there in could be claimed by the petitioner only in the suit instituted before the City Civil Court at Bombay. An

objection was also taken that, owing to the non -joinder of necessary parties, namely the Directors of the company, the suit is bad. Yet another

objection that was raised was that the suit had not been instituted by the petitioner in a representative capacity and that there was no proper and

valid service of the order of ad interim injunction passed by the City Civil Court at Bombay on the respondent company. The proceedings of the

Twenty fifth Annual General Meeting held. on 29-9-1983 were claimed to be quite in order, valid as well as legal. The illegality or otherwise of the

Twenty-fifth Annual General Meeting of the respondent-company held on 29-9-1983 was a matter, according to the respondent, to be decided

only by that Court which passed the order of ad interim injunction and which was by then, seized of an application alleging contempt also taken out

by P. J. Joseph. It was the further case of the respondent that the propriety and the validity of the service of the order of ad interim injunction can

also be decided only by the City Court, Bombay, and therefore, the suit as well as the application for injunction should be stayed under the

provisions of the Civil P.C. Inasmuch as the petitioner ceased to be a Director of the respondent-company with effect from 29-9-1983, the

respondent questioned the locus standing of the petitioner to institute the suit as well as to file the application and stated that the balance of

convenience was also only in favour of the respondent-company. The respondent-company, therefore, prayed for the dismissal of the application

for injunction.

4. Before the learned District Munsif, Coimbatore, on behalf of the petitioner, Exhibits A-1 to A-13 were marked while on behalf of the

respondent-company, Exhibits B-1 to B-3 were filed and no oral evidence was let in on both sides. On a consideration of the evidence so placed,

the learned District Munsif took the view that the respondent-company was put on notice of the ad interim injunction order passed by the City Civil

Court, Bombay, prohibiting the conduct of the Twenty-fifth Annual General Meeting scheduled to be conducted on 29-9-1983, that the

respondent company understood the nature of the ad interim injunction order passed by the said Court at Bombay, that the petitioner had been

removed from the Directorship of the respondent-company by the proceedings of the Twenty-fifth Annual General Meeting of the respondent-

company without any fault of his and by depriving him of a valuable right to get himself re-elected by participating in the Twenty-fifth Annual

General Meeting and that the balance of convenience, under those circumstances, was also. in favour of the petitioner. In that view, I. A. No. 2487

of 1983, was allowed.

5. Aggrieved by that order, the respondent company preferred an appeal in C. M. A. No. 1 of 1984 to the District Judge, Coimbatore. In that

appeal, the respondent-company filed I. A. No. 45 of 1984 under O. 41 R. 27, Civil P.C., for reception as additional evidence in the appeal the

final orders passed by the City Civil Court at Bombay on 12-1-1984 on, certain Notices of Motion taken out by the respondent company in S. C.

Suit No. 5658 of 1983, City Civil Court, Bombay, on the ground that that order had a material bearing on the point arising for decision in the

appeal. Though that application was opposed by the petitioner here the learned District Judge felt that since the documents were only the certified

copies of Court proceedings no prejudice will be caused to the petitioner and directed the reception of the orders of the City Civil Court, Bombay,

as additional evidence in the appeal and marked them as Exhibits B-4 and B-5.

Dealing with the merits of the appeal, the learned District Judge found that though an ex parte order of ad interim injunction was granted by the City Civil Court, Bombay, on 28-9-1983, the very same court had, later, on the Notice of Motion by the respondent company, found that it had no jurisdiction to entertain the suit in S. C. Suit No. 5658 of 1983, that the injunction application filed by P. J. Joseph as well as the contempt application filed by him had been dismissed and further that the plaint itself had been directed to be returned on the finding that no part of the cause of action arose within the jurisdiction of the City Civil Court at Bombay, and therefore, on the strength of the order of ad interim injunction passed earlier by the City Civil Court at Bombay, the petitioner cannot be granted the relief of injunction, as was done by the trial Court. In that view, the appeal was allowed and I. A. No. 2487 of 1983 filed by the petitioner was dismissed. The correctness of that order is challenged in this Civil Revision Petition.

6. The learned counsel for the petitioner submitted that the holding of the Twenty-fifth Annual General Meeting by the respondent company and the business transacted thereat contrary to the order of ad interim injunction granted by the City Civil Court, Bombay, would render the meeting as well as the other proceedings therein illegal. It was further pointed out that the subsequent order passed by the City Civil Court, Bombay, on the Notice of Motion of the respondent-Company would not make the original order of ad interim injunction non est or void and anything done in contravention of such an order, which was good until it was set aside, would put back the parties in the original position which they occupied. The learned counsel also attempted to distinguish between a case of total lack of jurisdiction or competence in a Court and an objection relating to the pecuniary or territorial jurisdiction to contend that this case is one where there was no total want of competence in the Court and no objection had also been taken to the jurisdiction of the local Court, which suggested a waiver. Reliance in support of these submissions was placed upon the decisions in *Nalla Senapathi Sarkarai Manradiar. Vs. Sri Ambal Mills (P) Ltd. and Others*, *Century Flour Mills Ltd. Vs. S. Suppiah and Others*, *Seth Hiralal Patni Vs. Sri Kali Nath*, and *Katamberi Chuzhali Bhagavati Amma's owner, Uralan and Manager Samanthan Karakkattitathil*

Kammaran Nambiar (since deceased) and Another Vs. Valia Ramunni, Karnavan and Manager now the Santikkaran of Parachinikkatavath

Mattappurakkal Muthappan Deity, styled as ""Matayan"" and Others, , per contra, the learned Counsel for the respondent-company contended that

in view of the orders passed by the City Civil Court, Bombay, on the Notice of Motion taken out by respondent-company, that court had no

jurisdiction whatever to entertain the suit and an order passed by a Court without jurisdiction would be a nullity and, therefore, no exception could

be taken either to the legality or propriety of the proceedings of the Twenty-fifth Annual General Meeting or to the business transacted thereat.

Strong reliance in this connection was placed by the learned Counsel upon the decision of the Supreme Court in Kiran Singh and Others Vs.

Chaman Paswan and Others, . The learned Counsel further submitted that in this case pointedly objection had been raised by the respondent-

company to the jurisdiction of the City Civil Court at Bombay, and on the upholding of such an objection, any order passed in the interregnum

alone cannot be treated, as valid as the said Court ab initio lacked jurisdiction to entertain the suit instituted by P. J. Joseph and the objection

regarding the jurisdiction had not in any manner been waived or given up by the respondent-company.

7. Thus, the principal question that arises for consideration is, whether the petitioner is prima facie entitled to an order of injunction as prayed for

by him based on the order of ad interim injunction granted by the City Civil Court, Bombay, on 28-9-1983 in the suit instituted by P. J. Joseph

against the respondent-company, the petitioner and other Directors as well. There is now no dispute before this court that the respondent-

company was put on notice and also served with an order of ad interim injunction issued by the City Civil Court, Bombay, with reference to the

Twenty-fifth Annual General Meeting of the company held on 29-9-1983. Equally, there is no dispute that by the order dt. 12-1-1984 marked as

Exhibits B-4 and B-5, the City Civil Court, Bombay, had dismissed the application for injunction taken out by P. J. Joseph and also the application

taken out by him for punishing the respondent-company, the petitioner as well as other Directors for wilful disobedience of the Order of ad interim

injunction passed by the City Civil Court, Bombay, on 28-9-1983 in Notice of Motion No. 5053 dt. 28-9-1983. It is seen from that order that the

respondent-company had raised and persisted in its plea that the City Civil Court, Bombay, had no jurisdiction to entertain the suit filed by P. J.

Joseph. On that question, it was found by the City Civil Court, Bombay, that the plaintiff proceeded to state that the respondent-company had its

office in Bombay and was also carrying on business in Bombay and that was an incorrect statement of fact. No material also was placed before the

City Civil Court, Bombay, to show that the respondent- company carried on any business at Bombay. The earlier holding of some of the meetings

at Bombay was also held not to give rise to the cause of action for the suit or to clothe the court with jurisdiction to entertain the same. The issue of

the notice of the meeting was also sought to be pressed into service to show that the court at Bombay had the jurisdiction, but all the notices were

found to have been posted at Coimbatore, as shown by the certificates of posting produced before court. Though the respondent-company had a

branch office at Bombay, since no part of the cause of action for the institution of the suit by P. J. Joseph arose at that place, the City Civil Court at

Bombay was found to lack territorial jurisdiction to entertain the suit. In that view, it was also held that any order passed in such a suit will not be

binding, but would be inoperative and void and of no effect against the respondent-company and its other Directors. The City Civil Court,

Bombay, also further found that though the respondent company had held the Twenty-fifth Annual General Meeting contrary to the order of ad

interim injunction, yet, the question of disobedience of orders of Court would not arise as that order was passed by a court having no jurisdiction

and no action for contempt for disobedience of that order would also lie. It was on the aforesaid reasoning and conclusions, that the City Civil

Court, Bombay, vacated the ad interim injunction granted by it in favour of P. J. Joseph in Notice of Motion No. 5053 dt. 28-9-1983 on the

Notice of Motion No. 6054 dt. 20-9-1983 taken out by the respondent-company. Notice of Motion No. 5326 dt. 3-10-1983 taken out by P. J.

Joseph for punishing the respondent- company and its Directors for having disobeyed the order of ad interim injunction was dismissed. A certified

copy of the order of the Bombay High Court dated 24-2-1984 was produced by the learned Counsel for the respondent-company before this

Court to show that the High Court had also confirmed the dismissal of the Notices of Motion No. 5053 dt. 28-9-1983 and No. 6054 dt. 20-9-

1983 by the City Civil Court, Bombay. As regards the Notice of Motion No. 5326 dt. 3-10-1983 for contempt, the High Court observed that it

was unnecessary to take any action or pass any orders save and except to confirm the trial Courts ultimate order

dismissing the Notice of Motion. It is thus clear from the proceedings referred to above that even the very Court which granted the ad interim

injunction initially in favour of P. J. Joseph had thought of it subsequently to vacate it and that order had also since been confirmed by the High

Court, Bombay. The petitioner had instituted the suit in O. S. No. 2017 of 1983 and prayed for injunction. In I. A. No. 2487 of 1983 solely on

basis of the invalidity attaching to the holding of the Twenty-fifth Annual General Meeting of the respondent company and the business transacted

thereat owing to the contravention of the order of ad interim injunction passed by the City Civil Court, Bombay. The order of ad interim injunction

granted by the City Civil Court, Bombay, is no longer in force. Indeed, the High Court at Bombay has also confirmed the order of the City Civil

Court, Bombay, vacating the ad interim injunction. Therefore, the substratum of the suit laid by the plaintiff, on the basis of which the interlocutory

relief of ad interim injunction was prayed for by him, is gone. The petitioner cannot, therefore, contend that he is still entitled on the strength of the

order of ad interim injunction granted by the City Civil Court, Bombay, and claim that certain consequences relating to the validity and legality of

the meeting had followed and, therefore, an injunction should be granted in his favour.

8. It has earlier been seen that under Exhibits B-4 and B-5, the City Civil Court Bombay, had passed orders to the effect that it had no jurisdiction

to entertain the suit in S. C. Suit No. 5658 of 1983 instituted by P. J. Joseph, as no part of the cause of action arose within its jurisdiction. The

effect of such lack of jurisdiction came to be considered by the Supreme Court, though also in the context of section 11 of the Suits Valuation Act,

1887 in *Kiran Singh and Others Vs. Chaman Paswan and Others*, . In that case, on the valuation stated in the plaint, the suit was properly laid

before the Sub Court and against the decision rendered by it, an appeal was preferred to the District Court. When the matter was further taken up

in Second Appeal before the High Court at Patna, for the first time, an objection was raised regarding the valuation in the plaint and the valuation

was determined at a figure, which would have rendered the first appeal before the District Court incompetent. In view of that, an argument was raised before the Supreme Court that the appeal should be heard free from the limitations under S. 100, Civil P.C., as a first-appeal against the judgment of the sub court, as the decree and judgment passed by the District Court was a nullity. Alternatively, it was contended that even if the decree and judgment of the District Court was valid, the appellants had suffered prejudice within the meaning of S. 11 of the Suits Valuation Act, 1887 and the decree was, therefore A liable to be set aside, with a direction that the appeal should be heard by the High Court on merits as a regular appeal. In setting out the general principles applicable when a court entertains a suit or an appeal over which it has no jurisdiction, the Supreme Court pointed out as follows (Para 6) : -

It is fundamental principle well established that a decree passed by a Court without jurisdiction is a nullity, and that its invalidity could be set up whenever and wherever it is sought to be enforced or relied upon, even at the stage of execution and even in collateral proceedings. A defect of jurisdiction, whether it is pecuniary or territorial, or whether it is in respect of the subject-matter of the action, strikes at the very authority of the Court to pass any decree, and such a defect cannot be cured even by consent of parties. If the question now under consideration fell to be determined only on the application of general principles governing the matter, there can be no doubt that the district Court of Monghyr was coram non judice, and that its judgment and decree would be nullities,

The Supreme Court thereafter only proceeded to consider on the facts of the case, the effect of S. 11 of the Suits Valuation Act, 1887. In this case, considerations arising under S. 11 of the Suits Valuation Act, 1887 are not applicable, as the objection is not on the footing of over valuation or under-valuation of a suit. The objection taken in this case is squarely rested on a total absence of cause of action for Mr. P. J. Joseph to institute the suit within the jurisdiction of the City Civil Court at Bombay and that has nothing whatever to do with S. 11 of the Suits Valuation Act, 1887.

The submission of the learned Counsel for the petitioner that the observations of the Supreme Court extracted above must be confined to and understood in the context of S. 11 of the Suits Valuation Act, 1887 does not

carry any conviction, for, the Supreme Court has clearly pointed out that a defect in territorial jurisdiction also strikes at the very authority of the Court to pass any decree which defect cannot be cured even by consent of parties. It is, therefore, not possible to accept the contention of the learned Counsel for the petitioner that the decision of the Supreme Court must be understood as being confined to the interpretation of the provisions of the Suits Valuation Act, 1887.

9. Turning to the argument relating to the illegality of the holding of the Twenty-fifth Annual General Meeting of the respondent company as well as the invalidity of the business transacted thereat owing to the holding of the meeting in contravention of the orders of ad interim injunction granted by the City Civil Court, Bombay it is seen that the very court which granted the ad interim injunction had not only found that it had no jurisdiction to entertain the suit and pass interim orders, but also that any order passed by it would be inoperative and not binding. That has also been affirmed on appeal by the order of the High Court of Bombay referred to earlier. Besides, of having committed a contempt of the order of ad interim injunction by disobeying the same had been thrown out by the very same court, as even according to it, such orders will have no effect on the company. The rejection of the application for contempt has also been affirmed by the High Court of Bombay. Under those circumstances, it is not clear as to how the petitioner can claim that the proceedings of the Twenty-fifth Annual General Meeting held on 29-9-1983 are either illegal or invalid as being in contravention of the order of ad interim injunction passed by a competent Court. When the City Civil Court at Bombay, which issued the ad interim injunction order had declared, though subsequently that such an order will have no binding effect on the respondent-company because the Court had no jurisdiction to entertain the suit and had also dismissed the application for contempt laid against the respondent-company and others for disobedience of its order of ad interim injunction, it appears to me that the petitioner, who was a party to those proceedings and who will be bound by the orders passed by the City Civil Court, Bombay, and the High Court at Bombay, cannot claim that the holding of the Twenty-fifth Annual General Meeting of the respondent-company and the business transacted thereat would all be illegal and invalid Though reliance in this

connection was placed by the learned Counsel for the petitioner upon the decision in Nalla Senapathi Sarkarai Manradiar. Vs. Sri Ambal Mills (P)

Ltd. and Others, , I am unable to read it as expressing any clear and final opinion on the question, as could be seen from paras 6 and 8 of the

judgment. Besides, there has been an assumption that territorial jurisdiction was ex facie lacking, which was not found as a fact one way or the

other, and the decision appears to have proceeded on the assumption without any factual basis or finding. Century Flour Mills Ltd. Vs. S. Suppiah

and Others, arose out of proceedings to declare as void, illegal and inoperative certain resolutions passed at a meeting of the company, held

despite a stay order of court. In the course of dealing with the question whether the resolutions were valid or not, the court taking note of the

difference between an order for stay and an order for injunction pointed out that the courts are not powerless to undo a wrong done in

disobedience of Court's order and that in doing so, it would refuse to recognise the holding of the meeting as a legal one. This decision proceeds

to approve Nalla Senapathi Sarkarai Manradiar. Vs. Sri Ambal Mills (P) Ltd. and Others, . The situation that arose in the decision in Century

Flour Mills Ltd. Vs. S. Suppiah and Others, is different, in that, no question of jurisdiction of a Court as such was involved but what was

complained of was a violation of a stay order passed by a Court of competent jurisdiction. In that context only, the learned Judges laid down that

the Court would refuse to recognise the holding of the meeting and that the party should be put back in the same position as he occupied prior to

the stay order. Such is not the situation in this case, where the very Court which passed the ad interim injunction order had clearly found that it had

no jurisdiction whatever to entertain the suit or even to pass the interim order and had even gone further to declare that the interlocutory orders

passed by it will not have any binding or operative effect on the respondent-company. The decisions relied on by the learned Counsel for the

petitioner cannot, therefore, have any application at all in this case.

10. It is now necessary to consider the objections based on the distinction between total lack of competence and lack of local jurisdiction. If there

is total lack of competence in a Court to entertain the suit, then there is no difficulty at all, because any order or adjudication made by such a

Court, would be a nullity. Even if the objection is based upon want of jurisdiction on the ground of either pecuniary or territorial jurisdiction, in view of the decision of the Supreme Court in *Kiran Singh and Others Vs. Chaman Paswan and Others*, , it seems to me that such a defect would also strike at the very authority of the court to pass a decree and it cannot be cured by consent of parties. Even on the assumption that there could be waiver of the objection in a manner recognised by law, in this case, there is no question of waiver at all, for, the respondent had clearly raised an objection regarding the jurisdiction of the City Civil Court at Bombay to entertain the suit and had persisted in that objection, which resulted in the Court coming to the conclusion that the City Civil Court at Bombay did not have jurisdiction to entertain the suit at all and that, therefore, the interim orders passed by it were of no consequence and were not binding on the respondent company. In view of this circumstance, the reliance placed by the learned Counsel for the petitioner upon the decision of the Supreme Court in *Seth Hiralal Patni Vs. Sri Kali Nath*, , cannot avail the petitioner, for, in that case factually, there was a waiver of the objection relating to the territorial jurisdiction of the Court raised in the written statement, when the matter was agreed to be referred to arbitration through court. It is, therefore, rather difficult to accept the contention of the learned Counsel for the petitioner that there has been waiver in this case, as the record clearly establishes contra. *Katamberi Chuzhali Bhagavati Amma's owner, Uralan and Manager Samanthan Karakkattitathil Kammaran Nambiar (since deceased) and Another Vs. Valia Ramunni, Karnavan and Manager now the Santikkaran of Parachinikkatavath Mattappurakkal Muthappan Deity*, styled as ""Matayan"" and Others, also reiterates the fundamental rule that a judgment of a court without jurisdiction is a nullity and that want of jurisdiction cannot be waived and the law recognises two exceptions to this, namely S. 11 of the Suits Valuation Act, 1887 relating to defects of jurisdiction due to wrong pecuniary valuation and under S. 21, Civil P.C., with reference to the wrong place of suing. There is no question of the applicability of S. 11 of the Suits Valuation Act in this case because there is no dispute on valuation at all and with reference to the territorial incompetency of the City Civil Court at Bombay, factually, there is no waiver of the objection relating to jurisdiction by the respondent-company, which raised the objection in the court of

first instance at the earliest possible opportunity, even in the course of the interlocutory proceedings, and had persisted in that objection which was upheld as well and that is the clearest indication that there is no abandonment of the objection regarding the territorial jurisdiction at all. Therefore, even assuming that similar considerations of waiver would arise with reference to an objection based on S. 11 of the Suits Valuation Act, 1887, and S. 21 Civil P.C., there has been no waiver in this case and the petitioner cannot claim that he is entitled to an order for injunction on the footing that the earlier order of ad interim injunction passed by the City Civil Court at Bombay would still hold good. The argument that the subsequent order passed by the City Civil Court at Bombay would not make the original order non est or void cannot be countenanced. If the Court had no jurisdiction at first to entertain the suit, anything done by it, by assuming such jurisdiction, would be totally without competence on its part to do so and merely because such incompetence is discovered subsequently, that would not render the intermediate act valid and binding till the date of discovery of such incompetence. To accept this argument would lead to a very strange situation in that orders passed by a Court, incompetent to entertain the proceedings would be valid between the date when the proceedings are entertained and the discovery of its incompetence and would not be either binding or operative, after the date of discovery of the incompetence of the Court. Either the Court is competent or it is incompetent to entertain suits and pass orders. The acceptance of the argument of the learned Counsel would render the same Court competent up to a particular stage of the proceedings and make it incompetent at the subsequent stages. Under those circumstances, this argument of the learned Counsel for the petitioner that the subsequent order would not make the original order non est or void is unacceptable. No other point was urged. Consequently the Civil Revision Petition fails and it is dismissed with costs.

11. Revision dismissed.