

(1980) 03 SC CK 0004

In the Supreme Court Of India

Case No : Civil Appeal No. 663 of 1979

Sri. Raja Lakshmi Dyeing Works and Others

APPELLANT

Vs

Rangaswamy Chettiar

RESPONDENT

Date of Decision : 26-03-1980

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 10, 115, 23, 25

Citation : AIR 1980 SC 1253 : (1980) 4 SCC 259 : (1980) 12 UJ 610

Hon'ble Judges : R. S. Pathak, J;O. Chinnappa Reddy, J

Bench : Division Bench

Final Decision : allowed

Judgement

O. Chinnappa Reddy, J.—The appellant is the sub-tenant of a part of the building of which the respondent is the tenant. The appellant carries on the business of dyeing while the respondent carries on business in Handloom Sarees. The respondent filed a petition u/s 10 of the Tamil Nadu Buildings (Lease and Rent Control) Act, for the eviction of the appellant on the grounds of wilful defaults in payment of rent, commission of acts of nuisance, denial of title and requirement of the premises for the respondent's own use and occupation in connection with a dyeing factory which he proposed to set up and expansion of the existing business. All the grounds were negatived, concurrently, by the Rent Controller and the Appellate authority. On a revision petition filed u/s 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, the High Court allowed the application for eviction on the basis of the grounds, setting aside the concurrent finding of the Rent Controller and the Appellate Authority on that question. The principal submission of Dr. Y.S. Chitale, learned Counsel for the appellant, was that the High Court exceeded its jurisdiction in interfering in the exercise of its revisional powers, with the concurrent finding of fact arrived at by the Subordinate Tribunal. The submission of Shri T.S. Krishnamurti Iyer, learned Counsel for the respondent, was that the jurisdiction u/s 25 of the Tamil Nadu Act was very wide and that a question regarding the bonafide requirement of a landlord was always

a mixed question of fact and law and the High Court, therefore, had ample jurisdiction to interfere even with a concurrent finding of the subordinate tribunal.

2. "Appeal" and "revision" are expressions of common usage in Indian statutes and the distinction between "appellate jurisdiction" & revisional jurisdiction is well known though not well defined. Ordinarily, appellate jurisdiction involves a rehearing, as it were, on law as well as fact and is invoked by an aggrieved person. Such jurisdiction may, however, be limited in some way as, for instance has been done in the case of second appeals under the CPC and under some Rent Acts in some States. Ordinarily, again, revisional jurisdiction is analogous to a power of superintendence and may some times be exercised even without its being invoked by a party. The extent of revisional jurisdiction is defined by the statute conferring such jurisdiction. The conferment of revisional jurisdiction is generally for the purpose of keeping tribunals subordinate to the revising tribunal within the bounds of their authority to make them act according to law, according to the procedure established by law and according to well defined principles of justice. Revisional jurisdiction as ordinarily understood with reference to our statutes is always included in appellate jurisdiction but not vice-versa. There are general observations. The question of the extent of appellate or revisional jurisdiction has to be considered in each case with reference to the language employed by the state.

3. Section 23 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 enables any person aggrieved by an order passed by the Controller to prefer an appeal to the appellate authority having jurisdiction. Section 25 provides that the High Court may on the application of any person aggrieved by an order of the appellate authority call for and examine the record of appellate authority, to satisfy itself as to the regularity of such proceeding or the correctness, legality or propriety of any decision or order passed therein and if, in any case it appears to the High Court that any such decision or order should be modified, annulled, reversed or remitted for reconsideration it may pass orders accordingly. The language of Section 25 is indeed very wide. But we must attach some significance to the circumstance that both the expressions "appeal" and "revision" are employed in the statute. Quite obviously, the expression "revision" is meant to convey the idea of a much narrower jurisdiction than that conveyed by the expression "appeal". In fact it has to be noticed that u/s 25 the High Court calls for and examines the record of the appellate authority in order to satisfy itself. The dominant idea conveyed by the incorporation of the words to satisfy "to satisfy" itself u/s 25 appears to be that the power conferred on the High Court u/s 25 is essentially a power of superintendence. Therefore despite the wide language employed in Section 25 the High Court quite obviously should not interfere with findings of fact merely because it does not agree with the findings of the subordinate authority. The power conferred on the High Court u/s 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act may not be as narrow as the revisional power of the High Court u/s 115 of the CPC but in the words of Untwalia, J., in *Dattopant Gopalvarao Devakate Vs. Vithalrao*

Maruthirao Janagaval, "it is not wide enough to make the High Court a second Court of first appeal".

4. Some argument was advanced whether a finding as to the bona fide requirement of a landlord is or not a mixed question of fact and law. Reference was made to Madan Lal Puri Vs. Sain Das Berry, and Kamla Sont v. Rup Lal Mehra AIR 1969 NSC 186 on the one hand and T.B. Sarvate v. Nemichand 1966 MPLG 26 and Mattulal Vs. Radhe Lal, on the other hand. We do not think it is necessary for the purpose of this case to enter into discussion of this question. Merely to hold that a question is a mixed question of fact it and law is not sufficient to warrant the exercise of revisional power. It must, further be shown that there was a taint of such unreasonableness resulting in a miscarriage of justice, A concurrent finding, base on evidence, that the landlord did not bonafide require the premises for his own use and occupation is not in our view a finding which can be touched by the High Court exercising jurisdiction u/s 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960. The appeal is therefore, allowed with costs. The judgment of the High Court is set aside and that of the appellate Court is restored.