
(2012) 10 MAD CK 0089

In the Madras High Court

Case No : C.R.P. (PD) (MD) . No"s. 1715, 1792, 1802 to 1805 of 2012

Tamil Nadu Mercantile Bank Ltd.

APPELLANT

Vs

S. Murugesan and Others

RESPONDENT

Date of Decision : 09-10-2012

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 39 Rule 1, 115, 9
Companies Act, 1956 — Section 149(2), 166, 260
Constitution of India, 1950 — Article 226, 227
Criminal Procedure Code, 1973 (CrPC) — Section 435, 439

Citation : (2012) 8 MLJ 19

Hon'ble Judges : S. Palanivelu, J

Bench : Single Bench

Advocate : A.L. Somayaji, for R. Sankaranarayanan, M.S. Krishnan, for Sarvabhauman Associates and Murari, for G. Mariappan, for the Appellant; G. Mariappan and M. Vallinayagam, for V.R. Shanmuganathan, S. Kadarkarai, V. Raghavachari, for J. Anandkumar and C. Muthusaravanan, for the Respondent

Final Decision : Dismissed

Judgement

S. Palanivelu, J.—In view of the issues involved in all these Civil Revision Petitions are one and the same, all the Civil Revision Petitions were taken up together and the common order is passed. Background facts in brief are as follows:

1(a). The second respondent bank in C.R.P. (MD) No. 1792 and 1802 to 1805 of 2012 is a scheduled commercial bank, established in 1921. In 1994, holders of equity shares of the bank constituting 67% of the total equity capital executed share transfer deeds in favour of seven different entities after receiving the consideration thereof. In relation to these transfers, several suits and company petitions came to be filed in different Courts and Tribunals by various parties. Majority of these proceedings commenced are alleged to be vexatious and prompted by vested interests who have been attempting to exploit the position relating to the share transfers, to obtain control over the bank.

1(b). The first respondent filed a suit in C.O.S. No. 233 of 2012 on the file of the Sub Court, Thoothukudi, for permanent injunction. He is one among the shareholders of the bank. He also filed I.A. No. 991 of 2012 under Order 39, Rule 1 C.P.C. praying for interim injunction against the respondents 2 to 8. On 10.8.2012, the learned Sub Judge, Thoothukudi, has granted interim injunction.

1(c). The short facts in the plaint and the affidavit filed by the first defendant in O.S. No. 233 of 2012 are to the effect that in terms of the order passed by the Division Bench of this Court in C.M.A. No. 3379 of 2003, the Directors who are 2 to 8 respondents herein have not vacated the office on 30.9.2010 and by stating various reasons they are sticking to the posts. It is profitable to extract the operative portions of the Division Bench judgment which go thus:

14. The provision for an additional director is one which is meant to enable the companies to have the benefit of the services of a person, who otherwise is suitable for serving on the Board, and whose presence in the Board is desirable in the interests of the company till up to time the next Annual General Meeting is held. That provision is not meant to enable the company to keep on its Board a person as additional director for an indefinite period of time by not holding the Annual General Meeting. Section 260 of the Act, therefore, must necessarily be read with Section 166 of the Act which stipulates that the Annual General Meeting be held every year and not more than fifteen months shall elapse between the date of one Annual General Meeting and the next.

15. A Division Bench of this Court comprising of RAJMANNAR, C.J., and VENKATARAMA AIYAR, J., as he then was in the case of A. Ananthalakshmi Ammal and Another Vs. The Indian Trades and Investments Ltd. and Another, with VENKATARAMA AIYAR, speaking for the Bench, after a review of the English cases, held that directors of a company who are due to retire at an Annual General Meeting vacate their office on the last date on which the Annual General Meeting should have been held though the meeting in fact was not held.

16. The Bombay High Court in the case of Krishnaprasad Jwaladutt Pilani Vs. Colaba Land and Mills Co. Ltd., , a case which was argued by a galaxy of Company lawyers, considered the question as to whether the elected lawyers, considered the question as to whether the elected Directors can continue after the expiry of the statutory period laid down for calling of the Annual General Meeting, and held that "we find little difficulty in reading the conclusion that a Director vacates his office at the latest on the last day on which an Annual General Meeting could have been called as required by Section 166."

17. The Court also considered in that case tenure of Additional Directors and held that all directors-whether elected or co-opted vacate office on the last date on which the Annual General Meeting should have been called u/s 166. The Court rejected the contention that despite the bench on the part of the directors of their statutory duty to call for Annual General Meeting, they would still continue to be Directors till the Annual General Meeting is in fact held.

18. In reaching the conclusion it did, the Bombay High Court followed the decision of a Division Bench of this Court in the case of A. Ananthalakshmi Ammal and Another Vs. The Indian Trades and Investments Ltd. and Another, .

1(d). 30.9.2010 is the date on which the 88th Annual General Meeting should have been held u/s 166 of the Companies Act and as per Article 60 of the Memorandum of Articles of Association of the bank. The 89th Annual General Meeting should have been called u/s 166 of the Companies Act, 1956 and as per Article 60 of the Memorandum and Articles of Association on 30.9.2011 and the three directors namely Mr. S.C. Sekar, Mr. S.R. Arvind Kumar and Mr. V.V.D.N. Vikraman who are due to retire by rotation on 30.9.2011 the date on which the 89th Annual General Meeting of the bank was due to be held, have ceased to be Directors as on that date. Hence, the respondents 2 to 8 are not at all eligible to function as Directors in Tamil Nadu Mercantile Bank Ltd. The respondents 2 to 8 are not at all legally entitled to function as Directors of Tamil Nadu Mercantile Bank Ltd., that as per the law laid down, Additional Directors and all directors whether elected or co-opted have to vacate office on the last date on which the Annual General Meeting should have been called u/s 166 of the Companies Act, 1956 and that no one can continue to be a Director beyond the date on which the Annual General Meeting should have been held.

1(e). It is further stated therein that the continuation of the Directors is against the interest and welfare of the bank, its depositors and investors, that they have been doing many illegal acts of transfer of shares against the Government policies, sanctioning of loans to ineligible persons, sanctioning of one time settlements for their benefits and thus cause irreparable loss to the bank and its shareholders. They are continuing with mala fide intention. Unless the first defendant bank is restrained from permitting 2 to 8 defendants from functioning as Directors of Tamil Nadu Mercantile Bank Limited, the provisions of the Companies Act, 1956 and the Articles of the Memorandum and Articles of Association of the bank will be defeated and the shareholders and other beneficiaries to the bank would be highly prejudiced. These are the grounds made out for praying temporary injunction.

2. The learned Sub Judge, Thoothukudi, after enquiring the first respondent in person, has passed the impugned order which is as follows:

Heard. Documents are perused. Prima facie case is in favour of the petitioner/ plaintiff. Ad-interim injunction is granted till 24.8.2002".

3. The above said order is facing a scathing attack on the side of the revision petitioners who are defendants in the suit. It is vehemently contended by the petitioners that the order is a non-speaking one, by means of which the functions of the bank have come to a stand still, that it does not satisfy the statutory requirements and that it has to be treated as non est in the eye of law.

4. The learned senior counsel Mr. A.L. Somayaji, appearing for the revision petitioner in C.R.P. (MD) No. 1715 of 2012 would strenuously contend that

inasmuch as the impugned order would indicate a clear non-application of mind on the part of the Presiding Officer who passed the order, that it does not stand for a minute's scrutiny, that this Court has got every power to set aside the order exercising supervisory jurisdiction of this Court under Article 227 of the Constitution of India, that the Court below should have considered that a suit for bare injunction would not lie, the declaration should also have been prayed for, that the petitioner was prevented by order of Court from convening and holding the 89th and 90th Annual General Meeting by various superfluous reasons, that the injunction order results in deprivation of quorum referred to the Board Meeting and the Court below ought not to have granted injunction since it affects very functioning of the bank and that there is no justification for continuance of the order challenged.

5. Mr. M.S. Krishnan, learned senior counsel appearing for the petitioner in C.R.P. (MD) No. 1792 of 2012 would contend that the powers of this Court are not fettered since this Court is conferred with the powers by virtue of Article 227 of the Constitution of India to keep the Subordinate Courts within bounds, that it is the duty of this Court to see the Subordinate Courts do not transgress the jurisdiction and to ensure whether they are acting within their jurisdiction, that as required by law, the Court below has not recorded any reasons for granting interim order, that the first respondent has never explained either in the plaint or in the affidavit that in what way the continuance of the petitioners and other Directors is detrimental to the interests of the bank, shareholders, investors and general public, that the first respondent has miserably failed to furnish the reasons before the trial Court as to the reasons for not holding the 88th and 89th Annual General Meeting, that likewise he has not also stated whether those meetings were held or not, that by means of this injunction, the quorum required for a Board Meeting is absent and consequently notices were taken by the Board and ultimately, it is the interest of the bank that has been jeopardised and the first respondent is also guilty of the suppression of the interim orders passed by this Court and the High Court of Bombay stating as to the conduct of the Annual General Meetings of the second respondent bank and that merely holding a single share, it should have been thought of by the Court below whether the first respondent has got locus standi.

6. Mr. Murari, learned senior counsel, appearing for the revision petitioners in C.R.P. (MD) Nos. 1802 to 1805 of 2012 would argue that owing to various cases filed in different Courts, the bank was prevented from convening and holding the meetings as required in terms of the Companies Act, that the 88th Annual General Meeting was stayed by the Bombay High Court which should have been held on or before 30.9.2010, therefore the bank addressed a letter to the Registrar of Companies seeking extension of time for holding the 88th Annual General Meeting for which he has exercised his statutory powers granting extension upto 31.12.2010 and subsequently this Court has also admitted W.P. No. 11159 of 2011 and granted interim injunction restraining the bank from holding the 88th Annual General Meeting for the year 2009-2010 and 89th

Annual General Meeting for the year 2010-2011 and the orders are continuing up-to-date, and that the order suffers from want of jurisdiction and it ought to be set aside in the interest of justice.

7. All the learned senior counsel appearing for the revision petitioners would argue in a same tone that the suit is misconceived, that it is well settled principle that when this Court finds that the Subordinate Courts discharges its duties without or beyond jurisdiction it has got every power to nip attempt in the bud and that on any account, the interim injunction order should not be allowed to continue.

8. Mr. M. Vallinayagam, learned senior counsel appearing for the first respondent/plaintiff in all the revision petitions would submit that the impugned order has to be corrected or set aside or modified by a competent Court of law and this Court cannot sit as an Appellate Court upon the orders passed by the Courts below venturing upon discussing contentious issues of facts, that it is also well settled that this Court can refuse to exercise powers under Article 227 of the Constitution of India when the party aggrieved has got effective alternative remedies, and without availing them he cannot invoke Article 227 of the Constitution of India, that this Court while exercising supervisory jurisdiction under Article 227 of the Constitution of India cannot transform it into a Court of Appeal and that the petitioners should have taken steps to file applications for vacating the interim injunction or to prefer an appeal.

9. Mr. V. Raghavachari, learned counsel appearing for the newly impleaded 9th respondent in C.R.P. (MD) No. 1715 of 2012 would contend that the 9th respondent society is more concerned with the welfare of the beneficiaries and the bank, that the Reserve Bank of India has imposed certain restrictions upon the deposit and utilisation of funds in accordance with the regulations and directions issued then and there and the objective of such restrictions is to avoid management of the bank being vested at the hands of a particular person or group, that despite the circular and guidelines the Board of Directors of the bank has done some illegal transfer of shares to a particular person and group of companies and the same resulted in filing of various, suits and writ petitions all over India by the shareholders, that tenure of the periods for which the Board of Directors to occupy the position were over by 30.9.2010 and 30.9.2011, their continuance after the expiry of the tenure is not lawful, further, they are continuing illegally, trying to rectify or ratify their misdeeds with regard to the management of the bank and transactions and that the bank is entitled to bring to the notice of the Court about various proceedings and that the continuance of the Directors would not be justified.

10. The gist of the dissension lies within a narrow campus, that is to say, since the Annual General Meetings were not convened as per the Memorandum and Articles of Association of the bank and Companies Act, the present Directors viz., the petitioners are continuing as Directors which is not legal and the same paves way for illegal transactions in the bank. As per petitioners, the 88th Annual

General Meeting was supposed to be held on or before 30.9.2010 and by the order of Registrar of Companies, the time was extended upto 31.12.2010. The Bombay High Court in W.P. No. 1821 of 2010 is stated to have stayed the convening of the 88th Annual General Meeting to be held on or before 30.9.2010 and this Court has stayed in W.P. No. 11159 of 2011, the Annual General Meeting for the year 2009-2010 and the 89th Annual General Meeting for the year 2010-2011. Indicating these reasons, the petitioners say that they are prevented by the stay orders of the Courts and hence there is no fault on their part. But it is contended by the learned senior counsel appearing for the first respondent that then and there they should have taken appropriate steps to get the stay vacated for the smooth functioning of the bank showing their bona fide intention and taking advantage of the stay order, they are adhering to the positions as Directors without any justification.

11. Before entering into the discussions as regards prima facie case or balance of convenience on the side of the first respondent, it is incumbent upon this Court to see whether this Court can interfere with the order passed by the Court and set aside the same exercising supervisory jurisdiction under Article 227 of the Constitution of India. It is well settled that sitting in revision under Article 227 of the Constitution of India, this Court cannot take up and proceed to deal with contentious questions of facts. For answering this question, the Court has to refer to various authoritative pronouncements of the Hon''ble Apex Court and decisions of this Court. The learned senior counsel appearing for the petitioners would place reliance upon the decision of the Hon''ble Apex Court in *The Industrial Credit and Investment Corporation of India Ltd. Vs. Grapco Industries Ltd. and Others*, wherein Their Lordships have observed that there was no bar on the High Court to itself examine the merits of the case in the exercise of its jurisdiction, if the circumstances so require and there is no doubt that High Court can even interfere with the interim orders of the Courts and Tribunals under Article 227 of the Constitution of India if the order is made without jurisdiction, and that a too technical approach is to be avoided, when facts of the case brought before the High Court are such that High Court can itself correct the error, then it should pass appropriate orders instead of merely setting aside the impugned order of the Tribunal and leaving everything in vacuum.

12. The Full Bench of the Hon''ble Supreme Court in *Shiv Kumar Chadha and Others Vs. Municipal Corporation of Delhi and Others*, , has discussed about the ambit of Section 9 C.P.C. and the circumstances on which the superior Court can interfere with the orders on jurisdictional question. Following are the operative portions of the observations as in the head note of the citation:

Where statutory enactments only create rights or liabilities without providing forums for remedies, any person having a grievance that he has been wronged or his right its being affected, can approach the ordinary civil Court on the principle of law that where there is a right there is a remedy-ubi jus ibi remedium. Where a particular Act creates a right or liability and also provides a

forum for enforcement of such right or for protection from enforcement of a liability without any authority in law, the ouster of Court's jurisdiction can be upheld on the finding that the rights or liabilities in question have been created by the Act without touching a pre-existing common law right and the remedy provided therein is adequate and complete. But the situation will be different where a statute purports to curb and curtail a pre-existing common law right and purports to oust the jurisdiction of the Court so far remedy against the orders passed under such statute is concerned. In such cases, the Courts have to be more vigilant, while examining the question as to whether an adequate redressal machinery has been provided, before which the person aggrieved may agitate his grievance. In spite of the bar placed on the power of the Court, orders passed under such statutes can be examined on "jurisdictional question.

13. Armed with this authority, Mr. M.S. Krishnan, learned senior counsel would contend that when the order challenged before this Court was passed without jurisdiction, this Court has got every power to interfere and set aside the same and since there could be no legal embargo. In *Kishore Kumar Khaitan and Another Vs. Praveen Kumar Singh*, , it is observed by the Hon'ble Apex Court as under:

72. The jurisdiction under Article 227 of the Constitution may be restrictive in the sense that it is to be invoked only to correct errors of jurisdiction. But when a Court asks itself a wrong question or approaches the question in an improper manner, even if it comes to a finding of fact, the said finding of fact cannot be said to be one rendered with jurisdiction and it will still be amenable to correction at the hands of the High Court under Article 227 of the Constitution. The failure to render the necessary findings to support its order would also be a jurisdictional error liable to correction.

14. The learned senior counsel also cited the following decisions of this Court to stress the point that when the order passed by the trial Judge does not contain any reason, it is liable to be set aside by this Court in revision.

1. *Suryanarayana Paper and Boards Pvt. Ltd. and others Vs. V. Padmakumar and others*, .

2. *The Andhra Social and Cultural Association Vs. R. Karuppan*, .

3. *Irin Stephan and three Others v. J. Musafargani* (2009) 3 LW 163.

15. Mr. Murari, learned senior counsel would cite a decision of this Court in *Tamil Nadu Foot Ball Association rep. by its Honorary Secretary v. B.G.P. SOCCER Associates rep. its Honorary Secretary Mr. P. Pandurangan and others*, wherein it is also observed that when the trial Court had not recorded that if ex parte order of injunction was not granted, object of granting injunction will be defeated and plaintiff would be put to great hardship, which could not be compensated by costs and that the Court is bound to record its conclusion that a prima facie case has been made out and balance of convenience lies in favour the party besides

recording reasons.

16. Mr. M. Vallinayagam, learned senior counsel appearing for the first respondent would garner support from an oft-quoted decision of the Hon"ble Supreme Court in *Surya Dev Rai v. Ram Chander Rai and Others* 2003 (4) CTC 176, on this subject. It is held that jurisdiction under Article 227 has been devised with self-imposed rules or discipline on their power and the supervisory jurisdiction may be refused to be exercised when an alternative efficacious remedy by way of appeal or revision is available to the person aggrieved. Following are the important passages in the judgment:

25. In order to safeguard against a mere appellate or revisional jurisdiction being exercised in the garb of exercise of supervisory jurisdiction under Article 227 of the Constitution, the Courts have devised self-imposed rules of discipline on their power. Supervisory jurisdiction may be refused to be exercised when an alternative efficacious remedy by way of appeal or revision is available to the person aggrieved. The High Court may have regard to legislative policy formulated on experience and expressed by enactments where the Legislature in exercise of its wisdom has deliberately chosen certain orders and proceedings to be kept away from exercise of appellate and revisional jurisdiction in the hope of accelerating the conclusion of the proceedings and avoiding delay and procrastination which is occasioned by subjecting every order at every stage of proceedings to judicial review by way of appeal or revision. So long as an error is capable of being corrected by a superior Court in exercise of appellate or revisional jurisdiction though available to be exercised only at the conclusion of the proceedings, it would be sound exercise of discretion on the part of the High Court to refuse to exercise power of superintendence during the pendency of the proceedings. However, there may be cases where but for invoking the supervisory jurisdiction, the jurisdictional error committed by the inferior Court or Tribunal would be incapable of being remedied once the proceedings have concluded.

26. In *Chandrasekhar Singh and Others Vs. Siya Ram Singh and Others*, , the scope of jurisdiction under Article 227 of the Constitution came up for the consideration of this Court in the context of Sections 435 and 439 of the Criminal Procedure Code which prohibits a second revision to the High Court against decision in first revision rendered by the Sessions Judge. On a review of earlier decisions, the three-Judges Bench summed up the position of law as under:

(i) that the powers conferred on the High Court under Article 227 of the Constitution cannot, in any way, be curtailed by the provisions of the Code of Criminal procedure;

(ii) the scope of interference by the High Court under Article 227 is restricted. The power of superintendence conferred by Article 227 is to be exercised sparingly and only in appropriate cases in order to keep the subordinate Courts within the bounds of their authority and not for correcting mere errors;

(iii) that the power of judicial interference under Article 227 of the Constitution is not greater than the power under Article 226 of the Constitution;

(iv) that the power of superintendence under Article 227 of the Constitution cannot be invoked to correct an error of fact which only a superior Court can do in exercise of its statutory power as the Court of Appeal; the High Court cannot, in exercise of its jurisdiction under Article 227, convert itself into a Court of Appeal.

17. Another celebrated decision on this point is *A. Venkatasubbiah Naidu Vs. S. Challappan and Others*, wherein Their Lordships have held that when efficacious alternative remedies are available the High Court can refuse to exercise powers under Article 227 of the Constitution of India. The relevant passage reads as under:

20. Now what remains in the question whether the High Court should have entertained the petition under Article 227 of the Constitution when the party had two other alternative remedies. Though no hurdle can be put against the exercise of the constitutional powers of the High Court it is a well recognized principle which gained judicial recognition that the High Court should direct the party to avail himself of such remedies one or the other before he resorts to a constitutional remedy. Learned single Judge need not have entertained the revision petition at all and the party affected by the interim ex-parte order should have been directed to resort to one of the other remedies. Be that as it may, now it is idle to embark on the aspect as the High Court had chosen to entertain the revision petition.

18. In *Sadhana Lodh v. National Insurance Company Ltd. and Another* 2003 (2) CTC 122, a Full Bench of the Hon'ble Supreme Court has held that when a party has got a statutory right to file an appeal, it is not open to the High Court to entertain a petition under Article 227 of the Constitution of India and by giving an illustration, the Apex Court has explained circumstances under which a revision in the High Court under Article 227 of the Constitution of India would lie. The relevant passage of the decision goes thus:

6. The right of appeal is a statutory right and where the law provides remedy by filing an appeal on limited grounds, the grounds of challenge cannot be enlarged by filing a petition under Article 226/ 227 of the Constitution on the premise that the insurer has limited grounds available for challenging the award given by the Tribunal. Section 149(2) of the Act limits the insurer to file an appeal on those enumerated grounds and the appeal being a product of the statute it is not open to an insurer to take any plea other than those provided u/s 149(2) of the Act (see *National Insurance Co. Ltd., Chandigarh Vs. Nicolletta Rohtagi and Others*, . This being the legal position, the petition filed under Article 227 of the Constitution by the insurer was wholly misconceived. Where a statutory right to file an appeal has been provided for, it is not open to High Court to entertain a petition under Article 227 of the Constitution. Even if where a remedy by way of

an appeal has not been provided for against the order and judgment of a District Judge, the remedy available to the aggrieved person is to file a revision before the High Court u/s 115 of the Code of Civil Procedure. Where remedy for filing a revision before the High Court u/s 115 of C.P.C. has been expressly barred by a State enactment, only in such case a petition under Article 227 of the Constitution would lie and not under Article 226 of the Constitution. As a matter of an illustration, where a trial Court in a civil suit refused to grant temporary injunction and an appeal against refusal to grant injunction has been rejected, and a State enactment has barred the remedy of filing revision u/s 115 C.P.C., in such a situation a writ petition under Article 227 would lie and not under Article 226 of the Constitution. Thus, where the State legislature has barred a remedy of filing a revision petition before the High Court u/s 115 C.P.C., no petition under Article 226 of the Constitution would lie for the reason that a mere wrong decision without anything more is not enough to attract jurisdiction of High Court under Article 226 of the Constitution.

7. The supervisory jurisdiction conferred on the High Courts under Article 227 of the Constitution is confined only to see whether an inferior Court or Tribunal has proceeded within its parameters and not to correct an error apparent on the face of the record, much less of an error of law. In exercising the supervisory power under Article 227 of the Constitution, the High Court does not act as an Appellate Court or The Tribunal. It is also not permissible to a High Court on a petition filed under Article 227 of the Constitution to review or re-weigh the evidence upon which the inferior Court or Tribunal purports to have passed the order or to correct errors of law in the decision.

19. The learned senior counsel also garnered support from the following decisions of this Court in support of his contention:

1. Rt. Rev. R.T. Baskaran, Bishop of Vellore and Another Vs. Aruldoss and Another, .
2. Shanita Holdings SDN, BHD, Malaysia and Another v. Shanita Hotel Trichy Pvt. Limited and Another (2009) 4 LW 159.
3. K. Ponnamal and Others v. V. Thayanban and Others (2012) 2 LW 193.
4. Madras Gymkhana Club v. K.C. Sukumar 2010 (1) CTC 199.

20. In the above said Madras Gymkhana Club v. K.C. Sukumar (supra) case, I have followed various decisions of the Hon"ble Supreme Court and observed that the present dispute is purely on a factual issue which has to be considered and settled by a Court of Appeal and this Court cannot sit as an Appellate Court by exercising its jurisdiction under Article 227 of the Constitution of India in view of the fact that alternative effective remedy of appeal is very much available to the petitioners. The decisions which have followed are as under:

13. A Full Bench of the Apex Court in Chandrasekhar Singh and Others Vs. Siya Ram Singh and Others, , observed that the scope of interference by the High

Court under Article 227 is restricted which has to be exercised most sparingly and only in appropriate cases in order to keep the Subordinate Courts within the bounds of their authority and not for correcting mere errors and in a decision in Bhagwan Das Jagdish Chander Vs. Delhi Administration, , the Apex Court reiterated a view stated in the earlier decisions referred to and held that the power of superintendence under Article 227 of the Constitution cannot be invoked to correct an error of fact which only a superior Court can do in exercise of its statutory power as the Court of Appeal and that the High Court cannot in exercise of its jurisdiction under Article 227 convert itself into a Court of Appeal.

14. In State, through Special Cell, New Delhi Vs. Navjot Sandhu @ Afshan Guru and Others, , also, it is held that the power under Article 227 is not available to be exercised to correct mere errors (whether on the facts or laws) and also cannot be exercised "as the cloak of an Appeal in disguise". It is further held by Their Lordships that the power under Article 227 is a discretionary power and it is difficult to attribute to an order of the High Court such a source of power, when the High Court itself does not purport to exercise any such discretionary power.

15. In Sneh Gupta Vs. Devi Sarup and Others, , the Apex Court has held that while exercising jurisdiction under Article 227, the High Court had a limited role to play and that it is not the function of the High Court while exercising its supervisory jurisdiction to enter into the disputed question of fact.

21. In the light of the afore stated illuminating authoritative judicial pronouncements of the Apex Court, I am of the firm opinion that when the petitioners have got alternative effective remedies, viz., filing application to vacate the interim injunction before the Court which passed order and filing appeal before the competent Court of appeal, they cannot invoke supervisory jurisdiction of this Court under Article 227 of the Constitution of India, that this Court cannot sit as a Court of appeal and whatever may be the errors committed by the trial Court ought to be corrected by the appellate Court and that the jurisdiction under Article 227 of the Constitution of India has to be exercised sparingly and not for merely correcting errors. In such view of this matter, all the Civil Revision Petitions have to suffer dismissal. The petitioners are at liberty to avail alternative remedies as per law. In fine, all the Civil Revision Petitions are dismissed. The learned Sub Judge, Thoothukudi, is directed to dispose of the L.A. No. 991 of 2012 in C.O.S. No. 233 of 2012 preferably within a period of two weeks from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed. No costs.