

(1996) 07 MAD CK 0018

In the Madras High Court

Case No : Civil Revision Petition No. 995 of 1993

V. Rajendran

APPELLANT

Vs

The District Munsif, Thiruvaiyaru, Thanjavur District, S.
Devendran and The State of TamilNadu

RESPONDENT

Date of Decision : 26-07-1996

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 10, 26, 27, 80, 9
Constitution of India, 1950 — Article 14, 17, 227, 341
Protection of Civil Rights Act, 1955 — Section 13, 16, 17, 2, 3

Citation : (1996) 07 MAD CK 0018

Hon'ble Judges : S.S. Subramani, J

Bench : Single Bench

Advocate : K. Chandru, for the Appellant; Kanmani Annamalai, for the Respondent

Final Decision : Allowed

Judgement

S.S. Subramani, J.—This is a Revision under Art. 227 of the Constitution of India to quash all proceedings in O.S. No. 353 of 1992, on the

file of the District Munsif's Court, Thiruvaiyaru, and pass such further or other orders as this Court may deem fit and proper in the circumstances

of the case. The circumstances under which the Revision is preferred, may be summarized as follows First respondent in this Revision is the District

Munsif before whom the above suit was instituted by the second respondent herein for himself and on behalf of the villagers of Andakudi claiming

themselves as Caste Hindus against the petitioner herein along with the State of Tamil Nadu.

2. In the plaint, it is stated that the said village where plaintiff resides consists of population of Caste Hindus in majority and limited families of

Harijans. There are two separate exclusive burial grounds for the two communities - earmarked for Harijans and Caste Hindus. Both the communities, according to the plaintiff are using the respective burial grounds for the past several decades without any hitch or hindrance. The Caste Hindus never interfered in the enjoyment of the Harijans of their burial ground and similarly the Harijans also did not interfere with the peaceful possession and enjoyment of the Caste Hindus burial grounds. Both the communities, in a very peaceful manner, were enjoying their respective burial ground.

3. It is said that on 20.11.1992, one Thangayan, a Harijan died and instead of burying him in the Harijan burial ground, the Harijans attempted to take the dead body through Kudiyanavar Street and wanted to bury him opposite to the Caste Hindu burial-ground where there is no place at all to bury or burn any dead body. The matter was reported to police and Revenue Department, Deputy Inspector of Police, Kumbakonam, Tahsildars of Papanasam and Kumbakonam and other officials came to the scene and when talks were progressing, some of the officials left the place. A little later, the dead body was brought in a taxi and the same was buried just opposite to the Caste Hindu burial ground. This caused great tension in the locality, and in the peaceful village of Andakudi, tension prevailed because of the high-handed action of the officials themselves and quarrels began to crop up among the two communities. It is further said that the claim of Harijans to bring the dead body through the streets of Caste Hindus to reach the new burial ground is absolutely untenable. A petition was sent on 23.11.1992 by plaintiff and others to all persons concerned, on which no action was taken. It is said that if the Harijans are allowed to bury the dead body in the new place instead of their own burial ground, it will create unnecessary problem. Hence, according to the plaintiff, they have to be restrained by an order of injunction. Plaintiff also wants the revenue officials to be prevented from instigating the Harijans to take the dead body and to bury the same in front of the Caste Hindus burial ground. Even though the suit was instituted against the Government, no notice under S. 80, C.P.C. was issued. There is an allegation in the plaint that since emergency relief was prayed for, permission may be granted for instituting the suit without issuing notice under S. 80, C.P.C.

Ultimately, the cause of action for the suit is said to be that on 20.11.1992, the Harijans, in collusion with the Government officials and police

officials, carried a dead body through Caste Hindus street, and buried the same in a place not officially recognised as burial ground in the revenue

records or in any other records, and were giving out in the village that they will bury the dead body only in that place hereafter, at Andakudi village,

Papanasam Taluk, where the occurrence took place and where the defendants are also residing.

4. In the relief portion, the plaintiff has prayed for the passing of a decree permanently restraining Lie defendants and their men and agents or

anybody claiming through them from in any manner carrying the dead body of any Harijan through the Caste Hindu street, or to bury the same in

the place just opposite to the Hindu burial ground or in any other place except R.S. No. 340/9 where the Harijan burial ground is in existence and

also for directing the contesting defendants to pay plaintiff the costs of the suit.

5. It may be noted that in paragraph 1 of the plaint, it is stated that R.S. No. 340/9 having an extent of 0-06-5 area is used by Harijans and R.S.

No. 316/1 having an extent of 0-3-5 area is used by Caste Hindus, and earmarked as burial ground for the respective community. Therefore,

according to the plaintiff, the dead bodies of Harijans should be buried only in that place and not in any other place.

6. Along with the plaint, plaintiff has also filed an affidavit and application, seeking for an injunction restraining the respondents-defendants from

burying dead bodies of Harijans just opposite to the burial ground earmarked for Caste Hindus. The reliefs prayed for in the injunction petition and

plaint are one and the same.

7. There was also another application, seeking permission of the Court to file the suit against the first defendant for himself and also on behalf of the

Harijans of the suit village.

8. The suit is now numbered and registered as O.S. No. 353 of 1992. By registering the suit, probably the Court might have given permission to

institute the suit without issuing S. 80, C.P.C, notice to the Government. It is seen that summons have also been issued to defendants, asking them

to appear on 8.2.1993 to answer the plaint claim. It is at that stage, the Revision was filed, to quash the entire proceedings, mainly for two reasons,

namely that the suit cannot be entertained since it is in violation of Article 17 of the Constitution of India, and there is also a statutory bar under S.

13 of the Protection of Civil Rights Act, 1955.

9. It is the contention of the learned counsel that before ordering summons, the Court has a duty to verify whether such suit could be entertained,

and before issuing summons, the Court is duty bound to verify whether the same violates the provisions of the Protection of Civil Rights Act, 1955.

According to learned counsel, even the order directing issue of summons is illegal. He wanted this Court to issue necessary directions to

Subordinate Courts, to desist from entertaining such cases which cause great communal disturbances in the rural areas. He submitted that the

entertainment of such suits will only encourage communal rights and create law and order problem.

10. I will consider these questions in seriatim

11. Article 17 of the Constitution says thus :

Unsociability is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of "Unsociability" shall be an

offence punishable in accordance with law.

12. Unsociability (Offences) Act, 1955 (Act 22 of 1955) came into force on 1.6.1955. The Act is now re-named as Protection of Civil Rights Act,

1955. The Act is passed to prescribe the punishment for the preaching and practice of "Unsociability", for the enforcement of any (liability arising

there from and for matters connected therewith. S. 2 of the said Act is the Definition Section. Sub-clause (a) of S. 2 of the said Act defined "civil

rights" thus-

2. In this Act unless the context otherwise requires (a) "civil rights" means any right accruing to a person by reason of the abolition of

unsociability" by Article 17 of the Constitution.

S. 4 deals with punishment for enforcing social disabilities. Sub-section (iv) of S. 4 says thus:-

4. Punishment for enforcing social disabilities -Whoever on the ground of "unsociability" enforces against any person any disability with regard to --

(iv) the use of, or access to, any river, stream, spring, well tank, cistern, water tap or other watering place, or any bathing-ghat, burial or cremating

ground, any sanitary convenience, any road, or passage, or any other place of public resort which other members of the public or any section

thereof, have a right to use or have access to shall be punishable with imprisonment for a term not less than one month and not more than six

months and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees

An Explanation is also added to the said section in 1976 by Amendment The said Explanation reads thus:-

For the purposes of this section, ""enforcement of any disability"" includes any discrimination on the ground of ""untouchability.

13. S. 13 of the said Act bars jurisdiction of Civil Courts. It reads thus¹³.

Limitation of jurisdiction of civil courts. -- (1) No civil court shall entertain or continue any suit or proceeding or shall pass any decree or order or

execute wholly or partially any decree or order if the claim involved in such suit or proceeding or if the passing of such decree or order or if such

execution would in any way be contrary to the provisions of this Act

(2) No court shall, in adjudicating any matter or executing any decree or order, recognize any custom or usage imposing any disability on any

person on the ground of unsociability

.

S. 16 of the said Act is also relevant in this regard. It reads thus:-

Save as otherwise expressly provided in this Act, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith

contained in any other law for the time being in force, or any custom or usage or any instrument having effect by virtue of any such law or any

decree or order of any court or other authority.

The overriding effect of the Act makes it clear that any custom or usage having the force of law shall also stand abrogated, with the commencement

of the Act and the Courts are barred from entertaining or continuing any suit or proceeding, nor shall pass any decree, or otherwise it shall refuse

to execute the same. Any custom which is also recognized by Court shall also be barred from being executed through Court, if the same is in any way

contrary to the provisions of the said Act, or if it imposes any disability on the ground of ""unsociability"".

14. I have already said that the word used in the plaint is "Harijan" and mention is also made about burial ground belonging to "Harijans. The word

"Harijan" prima facie denotes "untouchable". It was so decided in the decision reported in AIR. 1958 Mysore 862 (State v. Puranchand). A

Division Bench of that High Court said thus:-

It is well known that the word "Harijan" applies to untouchables and where the complainant was prevented from going inside a Jain Temple

because he was a "Harijan". it is sufficient to prove that he was stopped on the ground of untouchability.

15. Durga Das Basu - in "Short Constitution of India"- Eleventh Edition (1994), commenting on Article 17 of the Constitution read with

Untouchability (Offences) Act, 1955 has stated thus at page 102:

The word "untouchability" has not, however, been defined by the Act just as there is no definition in the Constitution.

16. In AIR. 1958 Mysore 84 (Devarajiah v. Padmanna) a learned single Judge of that High Court has held that "unsociability" in the Act refers to

the social disabilities historically imposed on certain classes of people by reason of their birth in certain castes and would not include an instigation

of social boycott by reason of the conduct of certain persons, and that the word "Harijan" prima facie refers to an untouchable. (In the footnote of

Shorter Constitution of India (cited supra) the citation is wrongly printed as Rangachari Vs. The General Manager, Southern Railway, Madras and

Another, The correct citation is AIR 1958 Mysore 84).

17. In AIR. 1958 Mysore 84 (supra) a learned single Judge of that High Court has held thus:-

It appears to me that the petitioner's contention has no force. The Unsociability Offences Act, 1955 does not define the word "Unsociability. This

Act is obviously a law passed by Parliament in accordance with the provisions of Art. 17 of the Constitution of India, which abolishes

"untouchability" and forbids its practice in any form and provides for punishment, according to law of the enforcement of any disability arising out

of "untouchability".

There is no definition of the word "unsociability" in the Constitution also. It is to be noticed that the word occurs only in Art. 17 and is enclosed in

inverted commas. This clearly indicates that the subject matter of that Article is

not unsociability in its literal or grammatical sense but the practice as it had developed historically in this country.

The existence and practice of unsociability in this country and the efforts made for its eradication during the past several decades are matters of common knowledge and can be taken judicial notice of. The framers of the Constitution dealt with this feature, which in their view constituted a blot on Indian Society, in two ways. They provided for withholding legal recognition to this form of social discrimination and for punishing such discrimination as an offence.

This is Art. 17 of the Constitution. They also enacted special provisions for the amelioration of the "untouchables". These are to be found in Part 15, which deals mainly with special measures for securing adequate representation for this class of people, in the Legislatures of the country, for recognizing their special claim to services and posts and for their uplift

In that context they are described as "'Scheduled Castes'", which term is defined in terms of Art. 341, which in turn authorizes the President to specify the castes, races or tribes, etc., which shall be deemed to be "'Scheduled Castes'" and also enables Parliament to make appropriate modifications. It was obviously necessary to make such a provision to facilitate the preparation of electoral rolls and to implement other matters relating to election as also to facilitate the undertaking of the ameliorative measures dealt with in that part of the Constitution.

But Art. 17 which was intended to give effect to the decision to abolish the practice of unsociability, as mentioned above, does not define that term, nor is a definition contained anywhere else in the Constitution. This omission would appear to be deliberate as the intention presumably was to leave no room or scope for the continuance of the practice in any shape or form.

In the Act in question also the same term "unsociability", i.e., in inverted commas, is employed. The effect of this device is the same as using the phrase "the practice known as unsociability", which necessarily refers to the meaning of the term in the context of the historical development of the practice and does not connote its literal meanings. It may be mentioned that prior to the promulgation of the Constitution several enactments had been passed by various Legislatures for the removal of the disabilities from which

the untouchables suffered.

For example, the Madras Removal of Civil Disabilities Act, 1938 refers to them as "any particular community or class known as Harijans,

Untouchables, Depressed Classes or the like". The Coorg Schedule Castes (Removal of Social Disabilities) Act, 1940 as the title indicates refers

to them as Scheduled Castes, which term is defined not only with reference to the Government of India (Scheduled Castes) Order, 1936, but also

includes Yerravas or any class or community known as Harijans, Untouchables and Depressed Classes.

It is thus seen the Madras and Coorg enactment also leave the classes to be gathered from the prevailing practice as the Act in question does.

Comprehensive as the word unsociability" the Act is intended to be, it can only refer to those regarded as untouchables in the course of historical

development. A literal construction of the term would include persons who are treated as untouchable either temporarily or otherwise for various

reasons, such their suffering from an epidemic or contagious disease or on account of social observances such as are associated with birth or death

or on account of social boycott resulting from caste or other disputes.

The practice that was in vogue for centuries together was intended to be undone by the Enactment, taken along with Art. 17 of the Constitution

Whatever may be the custom which was then in existence, is also given a go by by Article 17 of the Constitution. To undo the social discrimination

certain special provisions have been made in the Constitution and the Act is intended to serve the said purpose.

18. In 1995 Suppl. (4) S.C.C 460 State of Karnataka Vs. Appa Balu Ingale and others, their Lordships have considered the unsociability" in

paragraphs 18 to 20 of the judgement which read thus:-

Neither the Constitution nor the Act defined "unsociability". Reasons are obvious. It is not capable of precise definition. It encompasses

acts/practice committed against Dalits in diverse forms. Mahatma Gandhi in his My Philosophy of Life edited by A Hingorani, 1961 Edn, at p.

146, stated that "unsociability means pollution by the touch of certain person by reason of their birth in a particular state of family is a phenomenon

peculiar to Hinduism and has gone in warrant in reasons or sastras". According to Dr. Ambedkar, "the untouchability is the notion of defilement

pollution, contamination and the ways and means getting rid of that defilement. It is a permanent hereditary stain which nothing can cleanse.

The Parliamentary Committee on Unsociability headed by L. Elayaperumal in their 1969 Report stated that "unsociability" is a basic and unique

feature and inseparably linked up with the caste system and social set up based upon it. It does not require much research to realise that the

phenomenon of unsociability in this country is fundamentally of a religious or political origin. Unsociability is not a separate institution by itself, it is a

corollary of the institution of the caste system of Hindu Society. It is an attitude on the part of a whole group of people. It is a spirit of social

aggression that underlines this attitude.

Lela Dushkin in his *The Policy of the Indian National Congress Towards the Depressed Classes and Historical Study*, 1967, Eda, stated that

unsociability is ordinarily used in all sense, first to refer to the pollution, stigma attached to untouchables, secondly to refer to the set of practices

engaged in by the rest of the society to protect itself from pollution conveyed by the untouchables and to symbolized their inferior status. Dr.

M.C.J. Kagzi in his *Segregation and Unsociability Abolition*, 1976, Edn. at page 207 stated that it (unsociability) connotes the acts, action or

practice of non-touching of the members of the lowest by the Caste Hindus, which means separation, segregation and isolation of such persons

from the higher Caste Hindus. It means keeping the Harijan untouchables outside the mission. Swami Vivekananda had stated in his complete

works that "we refuse entirely to identify ourselves with "do not touch me" - That is not Hinduism. It is in none of our books. It is an orthodox

superstition which has interfered with national life all along the line".

In *Sastri Yagnapurushadji and Others Vs. Muldas Bhudardas Vaishya and Another*, this Court speaking through Gajendragadkar, C.J. held that

unsociability is founded by superstition, ignorance complete misunderstanding of the true teachings of Hindu religion." Sardar Vallabh Bhai Patel,

during the course of the discussion on the floor of the Constituent Assembly stated that removal of unsociability is the main idea. If abolition of

unsociability is to provide as a fundamental right, as an offence, necessary adjustment will be made in the law that can be passed by the legislature,

vide C.A.D., Vol.3, pages 434-35".

And, finally, their Lordships said thus:-

unsociability has grown as an integral facet of socio- religious practices being observed for over centuries, kept the Dalits away from the

mainstream of the society on diverse grounds, be it of religious, customary, unfounded beliefs of pollution etc., It is an attitude and way of behavior

of the general public of the Indian social order towards Dalits. Though it has grown as an integral part of caste system, it became an institution by

itself and it enforces disabilities, restrictions, conditions and prohibitions on Dalits for access to and the use of places of public resort, public means,

roads, temples, water sources, tanks, bathing ghats, etc. entry into educational institutions or pursuits of avocation or profession which are open to

all and by reason of birth they suffer from social stigma. Untouchability and birth as a reason Scheduled Caste are thus intertwined root causes.

Untouchability, therefore is founded upon prejudicial hatred towards Dalits as an independent institution. It is an attitude to regard Dalits as

pollutants, inferiors and outcasts. It is not founded on mens rea The practice of untouchability in any form is, therefore a crime against the

Constitution. The Act also protects civil rights of Dalits. The abolition of untouchability is the arch of the Constitution to make its preamble

meaningful and to integrate the Dalit in the national mainstream.

Their Lordships also said that the denial of their rights offends the right to equality enshrined in Article 14 of the Constitution. These provisions also

furnish evidence of sociology that Dalits have been denied access to all the public means open to the general public and segregation ,denial of

opportunities for educational, economic and cultural pursuits. In paragraph 24 of the judgment, their Lordships have further said thus:-

Untouchability is the root cause and consequently any religious, social customary or moral grounds to enforce untouchability no, longer subsists nor

is valid after January, 26,1950. Enforcement of any disability is a crime against human rights and the Constitution entails the wrongdoer with

punishment. All customs, usages, practices, directly or indirectly recognising or encouraging the practice of untouchability in any form is void, being

opposed to public policy. Even a contract, convenient or any private transaction tending to recognise encourage or effectuate untouchability in any

form is, therefore, void ab initio.

It is this disability suffered by Harijans that is sought to be removed by the Act and therefore, their Lordships said that any recognition of the old

rights, whether customary or otherwise, is against public policy and void ab initio.

19. By S. 17 of the Protection of Civil Rights Act, 1955, the custom or practice pleaded in the plaint stands abrogated, and S. 13 of the said Act

prohibits the Court from entertaining any suit or continuing the suit or to pass a decree, or even refuse to execute the decree, if it is against the

provisions of the Act. Even though the word used is "entertain" taking into consideration the context in which it is used, it follows that the Court is

prohibited from taking into consideration the plaint in any manner. Before issuing summons, the Court has to apply its mind, whether such a suit

could be entertained, and whether there is any statutory bar. In this case, even though the State has been impleaded, no S. 80, C.P.C. notice has

been issued, and permission has also been sought for dispensing with S. 80, C.P.C. notice. It is thereafter the suit ought to have been registered.

At least at that time, the Court should have applied its mind, whether the proposed suit could be entertained in a Court of law.,

20. S.9, C.P.C says:-

The Courts shall (subject to the provisions herein contained) have jurisdiction to try all suits of a civil nature excepting suits of which their

cognizance is either expressly or impliedly barred".

21. Wharton's Law Lexicon", 14th Edition, 1993 defines the word "Cognizance" thus

Knowledge upon which a judge is bound to act without having it proved in evidence.

In P. Ramanatha Aiyar's "The Law lexicon" -- Reprint Edition 1987, "Cognizance" is defined thus-

Judicial notice or knowledge; the judicial recognition or hearing of a cause; jurisdiction or right to try and determine causes. The word "cognizance

is used in the sense of" the right to take notice of and determine a cause

22. Now, the question to be considered is, whether the reliefs sought for can be said to be a suit of civil nature, and whether the plaintiff has got a

right to institute the suit.

23. While considering S. 9 C.P.C., the Supreme Court in a very recent judgment reported in 1995 Supp. (4) S.C.C. 286, (Most Rev. P.M.A.

Metropolitan v. Moran Mar Marthoma) in paragraph 29, has stated thus:-

Each word and expression casts an obligation on the court to exercise jurisdiction for enforcement of right. The word "shall" makes it mandatory.

No court can refuse to entertain a suit if it is of description mentioned in the section. That is amplified by use of expression "all suits of civil nature".

The word "civil according to dictionary means "relating to the citizen a an individual's civil rights". In Black's Law Dictionary it is defined as

contrasted with criminal proceedings

In S.A.L. Narayan Row and Another Vs. Ishwarlal Bhagwandas and Another, the Constitution Bench held "a proceeding for relief against

infringement of civil rights of a person is a civil proceeding". In AIR 1953 SC. 1227 (ArhmKumar Singh v. NandKishore Prasad) it was held "to

extend to all proceedings which directly affect civil rights". So, only in those cases where civil rights are affected, it could be said that it is a civil;

proceeding and, therefore, cognizance of the sounder S. 9C.P.C. can be taken by Court

24. First, we have to consider whet-he plaintiff has a civil right to institute such a ngh The right which he claims is on the basis of custom or usage

which has been abrogated, and if as tempted to be implemented, the same will be met with penal consequences. It is that right which is -now

prohibited by law, plaintiff wants to enforce. claiming it to be a civil right. Anything that is prohibited by law ceases to be a right which could be;

enforced through Court of law.

25. Under Ss. 26and 27of the Code of Civil Procedure, a plaint can be registered only it is "duly" instituted. A suit is considered to be "duly"

instituted only by the presentation of a plaint which has to conform the provisions of Orders 6, and 7, C.P.C. One of the fundamental principles for

a plaint to be presented is, the cause of action for instituting the suit. Cause of action means, "an action for which die defendant is answerable to

Court. It is the action of the defendant that gives a cause of action, for which the plaintiff may have to plead certain facts. See Boku Mahton and

Others Vs. Most. name not known widow of Anathi Thakur and Others, If the act complained of is prohibited by Statute and it cannot be

enforced. the defendant cannot also be made answerable to the same. It is only if the plaintiff has got a legal or civil right which could be enforced,

the defendant can be made answerable and can be asked to appear before Court. Therefore, the Court has got a duty before taking cognizance of the suit, whether it should call upon the defendant to answer the plaint claim. It is not a ministerial Act. The Judicial Officer concerned, has to apply his mind before taking action on it. When the Court orders summons, it means, it takes cognizance A summons can be issued only after application of mind. I find, that is violated in this case.

26. Even though in Second Appeal, this Court had occasion to consider the scope of Untouchability (Offences) Act, 1955 (Act 22 of 1955) and

the judgment is reported in 1972 - II M.L.J. 62 = 85 L.W.149 (Souriyar and others v. Shanmugasundaram Pillai and another). In paragraph 2 of

the judgment, Veeraswami, C.J. (speaking for the Bench) has said as to how far the Court's powers are taken away. It reads thus:-

We are of the view that S. 4(iv) read with Ss. 13 and 16 of Act XXII of 1955 leaves no room for doubt that no injunction against the appellants

could be given. S. 4(iv) is specific that whoever on the ground of untouchability enforces against any person any disability with regard to the use of

burial or cremation ground shall be punishable with imprisonment which may extend to six months, or with fine, which may extend to five hundred

rupees, or with both. The Act itself is intended to prescribe the punishment for the practice of untouchability and for the enforcement of any

disability arising there from and for matters connected therewith. The Act in effect purported to abolish untouchability in respect of the matters

covered by it. S. 3 prescribes punishment for enforcing religious disabilities and S. 4 similarly for enforcing social disabilities. Refusal to admit

persons to hospitals etc., on the ground of untouchability is made punishable by S. 5. Other offences arising out of untouchability are provided of

by S. 7. The civil Court's jurisdiction is limited by S. 13 which says that no civil court shall entertain or continue any suit or proceeding or shall pass

any decree or order or execute wholly or partially any decree or order if the claim involved in such suit or proceeding or if the passing of such

decree or order or if such execution would in any way be contrary to the provisions of the Act. Further, the section says that no Court shall, in

adjudicating any matter or executing any decree or order, recognise any custom or usage imposing any disability on any person on the ground of

untouchability. That is a comprehensive limitation which will cover the instant case as well. Moreover, S. 16 gives the Act an overriding effect and says that its provision will prevail notwithstanding any other law for the time being in force or any custom or usage. Recognition by means of restraining the defendants from using the suit burial ground will certainly be contrary to S. 4(iv) which disables any person from (preventing another) using the burial ground on the ground of untouchability".

27. Learned counsel for the petitioner is justified in invoking the provisions of Article 227 of the Constitution of India in filing this Revision. When Subordinate Courts act irrationally while taking cognizance of suits, the consequence of : which will be severe, on the community at large, this Court has a duty to see that the Subordinate Judiciary acts within its limits. It should also see that the Subordinate Courts act in accordance with law.

28. Learned Counsel for the respondent No. 2 submitted that the Court can reject the plaint at any time under Order 7, Rule 11, C.P.C. if it is ultimately shown that the suit is barred by any law or that the plaintiff has no cause of action. It is true, there is such a procedure. But, according to me, that is not exhaustive when we look into the provisions of the Protection of Civil Rights Act, 1955. When the Act says that the Court shall not continue the suit and also uses the word "entertain", according to me, a little more strict meaning will have to be applied. Even at the very threshold, the plaint will have to be taken off the file. The Court below, while it gave permission to institute the suit dispensing with S. 10, C.P.C. notice and directed the Office to register the suit, has violated the statutory provisions, and has acted against the law of the land. In the result, the Civil Revision Petition is allowed. The order of the first respondent to issue summons to the defendants asking them to appear to answer the plaint claim is quashed. The plaint presented by second respondent shall be taken off the file of the first respondent and the first respondent is prohibited from taking cognizance of it any longer. No costs.