

Court No. - 5

Case :- S.C.C. REVISION No. - 147 of 2016

Revisionist :- Raja @ Syed Naseem Akhtar

Opposite Party :- Smt. Shahina Parveen

Counsel for Revisionist :- Adnan Ahmad, Adnan Ahmad

Hon'ble Abdul Moin, J.

1. Heard learned counsel for the applicant.
2. Despite the notice having been issued to opposite party, nobody has responded on his behalf. As per the Office Report dated 19.10.2022, the service of notice is deemed sufficient upon the opposite party. Thus, this Court proceeds ex-parte against him to hear the matter finally.
3. Learned counsel for the revisionist states that the facts and the law point involved in the case have already been noted by this Court vide order dated 16.06.2016.
4. For the sake of convenience, the order dated 16.06.2016 is reproduced below:

"Heard Sri Adnan Ahmad, learned Counsel for the revisionist.

The revisionist has questioned the legality of order dated 08.08.2016 passed on application no. 35-Ga whereby the proceedings pending before the court of Additional District Judge, Court No. 9, Unnao were prayed to be transferred to Civil Judge (S.D.) Unnao on the premise of the amendment i.e. the Uttar Pradesh Civil Laws (Amendment) Act, 2015 according to which the pecuniary jurisdiction of the respective Courts of the Judge Small Causes Court have been enhanced.

In the light of the Uttar Pradesh Civil Laws (Amendment) Act, 2015, it was urged that the jurisdiction of the dispute in question has since been conferred upon Civil Judge (S.D.), therefore, the pending proceedings ought to have been transferred to the said Court.

Learned Counsel for the revisionist has also placed Section 5 of the U.P. General Clauses Act to demonstrate that in absence of any date

being mentioned to the contrary, the date of publication of the notification would be deemed to be the date of enforcement of an enactment made by the State.

On the strength of submission advanced before this Court, it is seen that though there is no provision under the Uttar Pradesh Civil Laws (Amendment) Act, 2015 in respect of the pending proceedings before the respective Courts but the consequence of such an amendment being implemented by this Court in respect of the pending case cannot be lost sight of. The pending proceedings before the court below may broadly fall under two categories viz (a) pending cases (b) part heard cases.

The matter at hand as per the impugned order appears to be in the first category i.e. pending cases. Since an order passed on the issue will have bear all the implication in mind, it is appropriate that the issue is thrashed out finally.

Issue notice to the respondents, returnable at an early date.

Beside normal mode of service, the revisionist shall also serve dasti and file an affidavit of service before the next date.

The proceedings before the Court are stayed till the next date of listing.

On the next date of listing, it shall be open to the parties to make a request for disposal of the instant revision."

5. On perusal of the aforesaid order and the pleadings on record, it emerges that the opposite party filed a suit before learned Additional District Judge under the Provincial Small Cause Courts Act, 1887 (hereinafter referred to as "Act, 1887") in the year 2013. The valuation of suit was indicated as Rs. 46,800/- as would be apparent from perusal of plaint, a copy of which is Annexure No. 1 to the revision. The Act, 1887 has been amended vide Uttar Pradesh Civil Laws (Amendment) Act, 2015 (hereinafter referred to as "Amendment Act, 2015") per which the pecuniary jurisdiction as provided under sub-section (2) of the Act, 1887 so far as it pertains to the State of Uttar Pradesh has been substituted from Rs. 25,000/- to Rs. 1,00,000/-.

6. Placing reliance on the provisions of Section 17 of Bengal, Agra and Assam Civil Courts Act, 1887, it is contended that where the civil

court has ceased to have jurisdiction with respect to any case, it may be had in the Court to which the business of the former Court has been transferred. Now as by virtue of the amendment in the pecuniary jurisdiction, the District Judge/Additional District Judge has ceased to have jurisdiction over suits below the valuation of Rs. 1,00,000/- concerning rent and eviction from building, therefore, all suits including the above suit requires to be dealt with by Small Causes Court of the Civil Judge (Senior Division) and not by the District Judge/Additional District Judge.

7. Learned counsel for the revisionist also argues that this aspect of the matter has been considered by this Court in the case of **Shobhit Nigam Vs. Batulan and Another**, reported in **2016 (10) ADJ 230**, wherein this Court, after considering the Amendment Act, 2015, was of the view that when an amendment has come into force it is not only the institution of the suit but the trial of the suit would also be involved and consequently as the pecuniary jurisdiction now stands enhanced to Rs. 1,00,000/- as such it would not be the learned District Judge/Additional District Judge who would have jurisdiction to entertain and decide the suit filed by the revisionist rather it would have to be decided by the learned Civil Judge (Senior Division).

8. He further contends that objections filed in this behalf by the revisionist, a copy of which is Annexure No. 4 to the revision, in August, 2016 have been rejected vide order impugned dated 08.08.2016, certified copy of which is annexed with this revision, and thus it is prayed that the order impugned be set aside requiring Court concerned to reconsider the application of the revisionist in the light of law laid down by this Court in the case of **Shobhit Nigam (supra)**.

9. Nobody has put appearance on behalf of opposite party despite service of notice as such this Court has gone through the records with the assistance of learned counsel for the revisionist.

10. The pecuniary jurisdiction stands enhanced in view of Amendment Act, 2015 with effect from 19.11.2015. The suit has been filed by the opposite party in October, 2013. As to what would be the effect of enhancement of pecuniary jurisdiction has been considered by this Court in the case of **Shobhit Nigam (supra)** wherein this Court has held as under:

"The judgment and order dated 24.5.2016 passed by the District Judge decreeing SSC Suit No. 16 of 2011 (Smt. Batulan Vs. Ayub Khan and another) is sought to be revised under Section 25 of the Provincial Small Causes Court Act, 1887 (hereinafter referred to as the Act) on the ground that the Additional District Judge had ceased to have pecuniary jurisdiction to decide it.

The aforesaid Act provides for the establishment of Courts of Small Causes for the local limits of the area beyond the original civil jurisdiction of High Courts established in the Presidency Towns for the purposes of trying certain nature of civil suits in a summary manner.

The said Act vide Section 15 read with its Second Schedule provides that all suits of civil nature upto a particular value shall be cognizable by a Court of Small Causes.

The aforesaid Act was amended time and again and the pecuniary value of suits cognizable by Small Causes Court was enhanced from time to time.

The said Act stood amended in its applicability to the State of U.P., also.

The State of U.P., vide Civil Laws (Amendment) Act 1972 added a provision to Sub-section 2 of Section 15 of the Act providing that the suits by the lessor for eviction of the lessee from a building after determination of his lease shall be cognizable by the Small Causes Court and that the reference to Rs. 2,000/- mentioned in Sub-section 2 of Section 15 of the Act shall be construed as Rs. 5,000/- in respect to the above nature of suits.

In this way the aforesaid Act in its applicability to U.P., classified the suits cognizable by Small Causes Courts into two groups ie. (i) all suits of the civil nature; and (ii) suits between lessor and lessee for arrears of rent and eviction from a building after determination of lease.

Section 15 of the Act read with the Second Schedule in its amendment to the State of U.P., vide Civil Laws (Amendment) Act, 1991 vests the

power of trial of all civil suits upto the valuation of Rs. 5,000/- and that of the suits between the lessor and lessee for rent and eviction from a building after determination of lease upto the valuation of Rs. 25,000/- upon the Small Causes Court.

The High Court vide notification of 8th February 1991 provided that all suits of the nature referred to in the proviso to Sub-section (2) of Section 15 of the Act as applicable in U.P., shall be cognizable by Munsifs (now Civil Judge, Junior Division) upto the valuation of Rs. 5,000/- and by the Civil Judge (now Civil Judge, Senior Division) upto the valuation of Rs. 25,000/-.

The High Court vide resolution dated 20.5.1994 of the Administrative Committee resolved that the senior most Civil Judge (Senior Division) in each district be conferred with the powers the powers of the Judge Small Causes Court.

Thus, the senior most Civil Judge (Senior Division) in each district of U.P., started functioning as the court of Small Causes to try suits of rent and eviction referred to in proviso to Section 15 (2) of the Act as applicable to U.P., having valuation upto Rs. 25,000/-.

Bengal, Agra and Assam Civil Courts Act, 1887 vide Sub-section (1) to Section 25 as applicable to U.P., empowers the High Court to invest Subordinate Judges (Civil Judge, Senior Division and Civil Judge, Junior Division) the jurisdiction of a Judge of a Court of Small Causes under the aforesaid Act upto such value not exceeding five thousand rupees. At the same time Sub-section (2) of Section 25 of the aforesaid Act invests the High Court to confer power upon any District Judge or Additional District Judge the jurisdiction of a Judge of the Small Causes under the Act for the purposes of trial of all suits irrespective of valuation by the lessor for arrears of rent and eviction of the lessee from the building after determination of lease.

The Bengal, Agra and Assam Civil Courts Act, 1887 was amended vide the U.P. Civil Laws (Amendment) Act, 1991 and Section 25 (2) of it was amended to construe Rs. 5,000/- referred to in Section 15 (2) of the Act as Rs. 25,000/- to bring the jurisdiction of the Small Causes Court in consonance with the amended Section 15 (2) of the Act. In Mohd. Haneef Vs. Sunil Tuli 2009 (1) ARC 750 His Lordship of the Allahabad High Court resolving the conflict between Section 15 of the Act and Section 25 of Bengal, Agra and Assam Civil Courts Act, 1887 held that there is no conflict in between the two provisions of Section 25 of the Bengal, Agra and Assam Civil Courts Act as amended by U.P. Act No. 37 of 1972 and the provisions as contained under U.P. Civil Laws Amendment Act, 1991. Both the provisions can be read harmoniously and the net effect of the same is that jurisdiction up the limit of Rs. 25,000/- can be exercised by Judge Small Cause Court under the provisions of Provincial Small Cause Courts Act, and as far as District Judges and Additional District Judges are concerned, they

are empowered to exercise jurisdiction of the Judge Small Cause Court for unlimited valuation in suits of rent and eviction between lessor and lessee after determination of lease of a building.

In the light of the above provisions, notifications, amendments and the law laid down the position which was prevailing in U.P., since 1991 was that all suits between the lessor and lessee for rent and eviction were tried by the Small Causes Court presided over by senior most Civil Judge, Senior Division of the district upto the valuation of Rs. 25,000/- and those with higher valuation by the District Judge/Additional District Judge as Small Causes Court.

The instant suit is between the lessor and the lessee for rent and eviction from a building after determination of lease and is referable to proviso to Section 15 (2) of the Act. The valuation of the suit is admittedly Rs. 44,000/-. Therefore, it was instituted in the court of District Judge/Additional District Judge for trial as a Small Causes Suit as the Civil Judge (Senior Division) vested with power of Small causes Court was empowered to deal with suits having valuation upto Rs. 25,000/- only and the rest of the suits were cognizable by District Judge/Additional District Judge.

The pecuniary jurisdiction of the Small Causes Court in respect of the above nature of the suits was enhanced by U.P. Civil Laws (Amendment Act) 2015 w.e.f. 7th December 2015 upto Rs. 1,00,000/- only leaving the trial of such nature of suits of higher valuation upon the District Judge/Additional District Judge as Small Causes Court.

In view of the above amendment it is contended that on the date of decision of the aforesaid suit having valuation of Rs. 44,000/- was cognizable by Small Causes Court presided over by Civil Judge (Senior Division) and not by the District Judge/ Additional District Judge but the objection to this effect was brushed aside.

I have heard Sri Arvind Srivastava, learned counsel for the revisionist and another Sri Arvind Srivastava for the respondents.

The argument on behalf of the revisionist is that the impugned judgment and order is without jurisdiction. Had the suit been decided by the Small Causes Court, he would have got a chance to seek its revision before the District Judge/Additional District Judge. This statutory remedy has been snatched away from the revisionist and he had been compelled to prefer the revision before the High Court which has eliminated the recourse to remedy Under Article 226/227 of the Constitution.

On behalf of the respondents it has been contended that the amendments brought about in Section 15 of the Act as applicable to the State of U.P. vide U.P. Civil Laws (Amendment Act) 2015 applies only with regard to institution of suit and not in relation to pending

suits in view of the statement and objects & reasons of the said Amendment Act. Therefore, the suits already instituted before the above amendment would continue to be tried and decided by the court before whom they were instituted and pending.

Section 15 of the Act as initially existed reads as under:-

15. "Cognizance of suits by courts of Small Causes.-

(1) A Court of Small Causes shall not take cognizance of the suits specified in the Second Schedule as suits expected from the cognizance from the cognizance of a court of Small Causes.

(2) Subject to the exceptions specified in that Schedule and to the provisions of of any enactment for the time being in force, all suits of a civil nature of which the value does not exceed five hundred rupees shall be cognizable by a Court of Small Causes.

(3) Subject as aforesaid the State Government may, by order in writing, direct that all suits of a civil nature of which the value does not exceed one thousand rupees shall be cognizable by a court of Small Causes mentioned in the order."

The aforesaid Section 15 of the Act in its applicability to the State of U.P., wef. 15.1.1991 after the U.P. Civil Laws (Amendment) Act, 1991 reads as under:-

"(1) A Court of Small Causes shall not take cognizance of the suits specified in the Second Schedule as suits expected from the cognizance of a Court of Small Causes.

(2) Subject to the exceptions specified in that Schedule and to the provisions of any enactment for the time being in force, all suits of a civil nature of which the value does not exceed five thousand rupees shall be cognizable by a Court of Small Causes:

Provided that in relation to suits by the lessor for the eviction of a lessee from a building after the determination of his lease or for recovery from him of rent in respect of the period of occupation thereof after the determination of the lease, the reference in this sub-section to five thousand rupees shall be construed as a reference of twenty five thousand rupees.

Explanation.- For the purposes of this sub-section, the expression 'building' has the same meaning as in Art. (4) in the Second Schedule."

It appears that previously suits by lessor for eviction of the lessee from a building after determination of tenancy, upto the value of Rs. 5,000/- were cognizable by the Court of Small Causes but the

aforesaid pecuniary jurisdiction was enhanced upto Rs. 25,000/- w.e.f. 15.1.1991.

The pecuniary jurisdiction of the Small Causes Courts in respect of the above category of suits has been further amended by the U.P. Civil Laws (Amendment Act) 2015 w.e.f. 7th December 2015 and it has been provided that the Small Causes suits upto the valuation of Rs. 1,00,000/- between the lessor and lessee for the rent and eviction shall be cognizable by Small Causes Court which refers to courts presided over by Civil Judge (Senior Division). The suits of higher valuation would therefore lay before the District Judge/Additional District Judge.

The U.P. Civil Laws (Amendment) Act, 2015 amends Section 15 of Provincial Small Causes Court Act, 1887 as amended in its application to U.P., with effect from 7th December 2015 as under:-

4. "In Section 15 of the Provincial Small Cause Courts Act, 1887.-

(a) in sub-section (2) for the words "five thousand rupees" the words "twenty five thousand rupees" shall be substituted;

(b) in the proviso to sub-section (2) for the words "twenty five thousand rupees" the word "one lakh rupees" shall be substituted."

Thus, Section 15 of the Act in its application to the State of U.P., after the U.P. Civil Laws Amendment Act, 2015 reads as under:-

"(1) A Court of Small Causes shall not take cognizance of the suits specified in the Second Schedule as suits expected from the cognizance of a Court of Small Causes.

(2) Subject to the exceptions specified in that Schedule and to the provisions of any enactment for the time being in force, all suits of a civil nature of which the value does not exceed twenty thousand rupees shall be cognizable by a Court of Small Causes:

Provided that in relation to suits by the lessor for the eviction of a lessee from a building after the determination of his lease or for recovery from him of rent in respect of the period of occupation thereof after the determination of the lease, the reference in this sub-section to five thousand rupees shall be construed as a reference of 1 lakh rupees.

Explanation.- For the purposes of this sub-section, the expression 'building' has the same meaning as in Art. (4) in the Second Schedule."

The valuation of the suit at hand is Rs. 44,000/- ie., higher than Rs. 25,000/- and less than Rs. 1,00,000/-. Therefore, in view of the aforesaid amendment it falls within the jurisdiction of the Small

Causes Court presided over by Civil Judge (Senior Division) and not the District Judge/Additional District Judge on the date of its decision.

The prefatory note of statement of objects and reasons contained in U.P. Civil Laws (Amendment Act) 2015 states that the pecuniary jurisdiction of Small Causes Court in the State of U.P., requires to be enhanced for the 'institution' of civil suits and appeals and therefore it is necessary to amend the Small Causes Court Act, 1887.

The emphasis has been laid upon the word 'institution' to denote that the jurisdiction has been altered only for the purposes of filing of the suits and not for the trial of the pending suits.

The institution of the suits by necessary implication includes the trial of the suits also. Therefore, the change of jurisdiction is not only for the purpose of institution but for the trial of the suits also.

The language used in the Amending Act to amend Section 15 of the Act is unambiguous, plain and clear. It provides that the suits of rent and eviction upto the valuation of Rs. 1,00,000/- are triable by the Small Causes court ie., of the Civil Judge, Senior Division with effect from the enforcement of Amending Act. It leaves no scope for two opinions. It is a golden rule of interpretation that where the language is plain and clear, the literal meaning conveyed should be followed and there is no need for taking aid of either the statement of objects and reasons or the purpose behind enacting the provision.

In Thalappalam Service Cooperative Bank Limited and others Vs. State of Kerala and others (2013) 16 SCC 82 it has been observed that primarily the language employed in the statute is the determining factor of the legislative intention which must be found in the words used by the legislature itself and if the words used are capable of one construction only then it would not be open to courts to adopt any other hypothetical constrictions.

In Maharishi Mahesh Yogi Vedic Vishwavidyala Vs. State of Madhya Pradesh and others (2013) 15 SCC 677 it was observed that the preamble or the statement of objects or reasons of any statute is not to influence the meaning otherwise ascribable to the enacting parts unless there is compelling reasons for it.

In M/s. Girdhari Lal and sons Vs. Balbir Nath Mathur and others 1986 (SC) 1499 it was held that the golden rule of construction is that where the words of statutes are plain and unambiguous effect must be given to them. First, the legislative intention must be gathered from the statute itself, next from the preamble of the statute, next from the statement of objects and reasons, thereafter from legislative debates, reports of the Committee and commissions and finally from all legitimate and admissible sources which may throw light on it

including the legislative history.

Thus, it is not proper for me to go into the objects and reasons behind the Amending Act and to interpret the provision in manner different from what it clearly expresses.

In this context Section 17 of The Bengal, Agra and Assam Civil Courts Act, 1887 is also relevant and important. It provides that where any civil court has ceased to have jurisdiction with respect to any case, it may be had in the court to which the business of the former court has been transferred. Now by virtue of the amendment in the pecuniary jurisdiction, the District Judge/Additional District Judge has ceased to have jurisdiction over suits below the valuation of Rs.1 lakh concerning rent and eviction form building. Therefore all suits including the above suit requires to be dealt with by Small Causes Court of the Civil Judge (Senior Division) and not by the District Judge/Additional District Judge.

In view of the aforesaid discussion with effect from 7th December 2015 the jurisdiction to try all suits between the lessor and lessee for rent & eviction under Section 15 of the Act as applicable to the State of U.P., upto the valuation of Rs.1 lakh irrespective of the date of their institution would lie before the Small Causes Court presided over by the Civil Judge (Senior Division) and the District Judge/Additional District Judge would not have jurisdiction to decide them except those having the valuation of over 1 lakh.

Accordingly, the assumption of jurisdiction by Additional District Judge in deciding the present suit having valuation of Rs. 44,000/- is illegal. It makes the judgment and order passed by him liable to be set aside.

Accordingly, the impugned judgment and order dated 24.5.2016 is set aside and the matter is remanded to the regular Small Causes Court presided over by senior most Civil Judge, Senior Division of the district for its decision in accordance with law.

A copy of this judgment be circulated to all the District Judges of U.P., for necessary compliance to ensure that all pending suits of rent and eviction from a building after determination of lease falling under proviso to Section 15 (2) of the Act upto the valuation of Rs. 1,00,000/- be transferred to the Small Causes Court presided over by senior most Civil Judge, Senior Division of the district irrespective of the date of their institution.

The revision is allowed."

11. A perusal of the order passed by learned Court below dated 08.08.2016 would indicate that this aspect of the matter has not been

considered by the Court below while deciding the application filed by the revisionist.

12. Considering the aforesaid, the revision is allowed. The order impugned dated 08.08.2016, certified copy of which is annexed with this revision, is set aside.

13. The matter is remitted back to the Court below to decide the application of the revisionist dated 02.08.2016, a copy of which is Annexure No. 4 to the revision, after hearing all the parties concerned and considering the law laid down by this Court in the case of **Shobhit Nigam (supra)**.

14. Let such order be passed within a period of three months from the date of receipt of certified copy of this order without being influenced by the observations made above inasmuch the said observations have only been made for the purpose of deciding the instant revision.

Order Date :- 1.2.2024
Mohit Singh/-