

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.5481 of 2017

Date of Decision: 18.08.2017

Sub Divisional Officer, (OP) UHBVN and others

... Petitioners

Vs.

Mahinder Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Puneet Jindal, Sr. Advocate with
Mr. Varun Goyal, Advocate
for the petitioners.

RAMESHWAR SINGH MALIK J. (ORAL)

Feeling aggrieved against the order dated 25.07.2017 passed by the learned District Judge, permitting the respondent to amend his contempt petition, only by substituting the Secretary, UHBVN with its CMD as respondent No.3, petitioners have approached this Court by way of instant civil revision petition under Article 227 of the Constitution of India, for setting aside the impugned order.

Heard learned senior counsel for the petitioners.

Placing reliance on two judgments of this Court in **ICICI Bank Vs. Kusum Aggarwal, 2014 (1) PLR 306** and **M/s Indian Oil Corporation Ltd. Vs. M/s Shiv Oil Carrier and others, 2016 (4) PLR 367**, learned senior counsel for the petitioners submits that the impugned order suffers from patent illegality and the same is liable to be set aside. He further submits that contempt

petition itself was not maintainable before the learned Court below.

Having heard the learned senior counsel for the petitioners, after carefully going through the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that since the impugned order has not been found suffering from any patent illegality or perversity, the same deserves to be upheld and the instant revision petition is liable to be dismissed, for the following more than one reasons.

It is a matter of record that during pendency of his first appeal, respondent-plaintiff, whose first appeal is still pending consideration before the learned first appellate Court, deposited the entire amount of penalty i.e. Rs.60,000/-. Thereafter, learned District Judge passed the order dated 25.10.2016, which reads as under: -

“Heard. The disputed penalty amount of Rs.60,000/- has since been deposited by the appellant. Since the entire payment has been made, therefore, matter is ordered to be put up before Mega Lok Adalat on 12.11.2016 for compromise. Meanwhile, electricity connection of the appellant shall be restored.

Learned senior counsel for the petitioners has apprised this Court that in compliance of the abovesaid order passed by the learned District Judge, efforts for an amicable settlement before the learned Mega Lok Adalat on 12.11.2016 could not succeed. Thus, first appeal of the plaintiff-respondent is pending consideration to be decided on merits by the learned first appellate Court. When authorities of the Power Corporation-petitioners did not ensure meticulous compliance of the abovesaid order dated 25.10.2016 passed by the learned first appellate Court, plaintiff-respondent filed contempt petition before

the learned District Judge vide Annexure P-4. It seems that notice was issued to the contemnors and they filed their reply to the contempt petition vide Annexure P-6 (colly.).

Thereafter, since CMD, UHBVN could not be impleaded as party-respondent in the contempt petition because of inadvertence on the part of the respondent and his counsel before the learned Court below, an application for seeking amendment in his contempt petition was moved by the respondent for substituting the Secretary, UHBVN with its CMD. It was this application for amendment moved by the respondent, which was allowed by the learned District Judge, by passing the impugned order.

It is also not in dispute that learned District Judge has not convicted anybody for alleged commission of contempt of Court. Had there be an order of conviction passed by the learned District Judge, learned senior counsel for the petitioners would have been justified to say that the said order would be an order without jurisdiction. However, this is not the fact situation obtaining on record of the present case. By passing the impugned order, learned District Judge has only permitted amendment in the contempt petition. Further, in case the contemnors-petitioners have not committed any contempt of Court, as sought to be argued by learned senior counsel for the petitioners before this Court, they would be at liberty to apprise the learned District Judge, by moving appropriate application or reply on behalf of petitioner No.3. Having said that, this Court feels no hesitation to conclude that learned District Judge committed no error of law, while passing the impugned order and the same deserves to be upheld.

Learned senior counsel for the petitioners sought to raise another

contention that no time period was stipulated by the learned District Judge, while passing the order dated 25.10.2016 (Annexure P-2) and the electric supply of the consumer-respondent has already been restored on 06.12.2016. This contention has been recorded only because learned senior counsel for the petitioners insisted for recording it, in spite of the fact that this contention is wholly irrelevant, so far as the instant revision petition before this Court is concerned.

So far as the abovesaid judgments relied upon by learned senior counsel for the petitioners are concerned, there is no dispute about the observations made and law laid down therein. However, on close perusal of the cited judgments, none of them has been found of any help to the petitioners, being distinguishable on facts. It is settled proposition of law that peculiar facts and circumstances of each case are to be examined, considered and appreciated first before applying any codified or judgemade law thereto. Sometimes, difference of even one additional fact or circumstance can make the world of difference, as held by the Hon'ble Supreme Court in **Padmausund Rao and another Vs. State of Tamil Nadu and others, 2002 (3) SCC 533, Union of India Vs. Amrit Lal Manchanda and others, 2004 (3) SCC 75, State of Orissa Vs. Md. Illiyas, 2006 (1) SCC 275 and State of Rajasthan Vs. Ganeshi Lal, 2008 (2) SCC 533.**

With a view to avoid repetition and also for the sake of brevity, the observations made by the Hon'ble Supreme Court in para 11 and 12 of its later judgment in **Ganeshi Lal's** case (supra), reiterating its earlier view taken in **Amrit Lal Manchanda's** case (supra) and **Mohd. Illiyas's** case (supra), which can be gainfully followed in the present case, read as under:-

“11. “12....Reliance on the decision without looking into the factual background of the case before it is clearly impermissible. A decision is a precedent on its own facts. Each case presents its own features. It is not everything said by a Judge while giving a judgment that constitutes a precedent. The only thing in a Judge’s decision binding a party is the principle upon which the case is decided and for this reason it is important to analyse a decision and isolate from it the ratio decidendi. According to the well-settled theory of precedents, every decision contains three basic postulates; (i) findings of material facts, direct and inferential. An inferential finding of facts is the inference which the Judge draws from the direct, or perceptible facts; (ii) statements of the principles of law applicable to the legal problems disclosed by the facts; and (iii) judgment based on the combined effect of the above. A decision is an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically flows from the various observations made in the judgment. The enunciation of the reason or principle on which a question before a Court has been decided is alone binding as a precedent. (See: State of Orissa v. Sudhansu Sekhar Misra and Ors. (AIR 1968 SC 647) and Union of India and Ors. v. Dhanwanti Devi and Ors. (1996 (6) SCC 44). A case is a precedent and binding for what it explicitly decides and no more. The words used by Judges in their judgments are not to be read as if they are words in Act of Parliament. In Quinn v. Leathem (1901)

AC 495 (H.L.), Earl of Halsbury LC observed that every judgment must be read as applicable to the particular facts proved or assumed to be proved, since the generality of the expressions which are found there are not intended to be exposition of the whole law but governed and qualified by the particular facts of the case in which such expressions are found and a case is only an authority for what it actually decides. Coming to the peculiar fact situation obtaining on record of the present case, it is unhesitatingly held that learned Permanent Lok Adalat discussed, considered and appreciated each and every relevant aspect of the matter, before passing the impugned award. The only endeavour made by the learned Permanent Lok Adalat was to do complete and substantial justice between the parties and this approach adopted by learned Permanent Lok Adalat has been found well justified on facts as well as in law. Ed. See State of Orissa Vs. Mohd. Illiyas, (2006) 1 SCC 275 at p.282, para 12.

12. 15....Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of Courts are neither to be read as Euclid's theorems nor as provisions of the statute and that too taken out of their context. These observations must be read in the context in which they appear to have been stated. Judgments of Courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for judges to embark into

lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes; their words are not to be interpreted as statutes. In London Graving Dock Co. Ltd. V. Horton (1951 AC 737 at p.761), Lord Mac Dermot observed: (All ER p. 14 C-D)

"The matter cannot, of course, be settled merely by treating the ipsissima verba of Willes, J as though they were part of an Act of Parliament and applying the rules of interpretation appropriate thereto. This is not to detract from the great weight to be given to the language actually used by that most distinguished judge."

16. In Home Office v. Dorset Yacht Co. (1970 (2) All ER 294) Lord Reid said (at All ER p.297g-h), "Lord Atkin's speech.....is not to be treated as if it was a statute definition. It will require qualification in new circumstances." Megarry, J in Shepherd Homes Ltd. V. Sandham (No.2) (1971) 1 WLR 1062 observed: (All ER p. 1274d-e) "One must not, of course, construe even a reserved judgment of Russell L.J. as if it were an Act of Parliament." And, in Herrington v. British Railways Board (1972 (2) WLR 537) Lord Morris said: (All ER p. 761c)

"There is always peril in treating the words of a speech or judgment as though they are words in a legislative enactment, and it is to be remembered that judicial utterances made in the setting of the facts of a particular

case."

17. Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases. Disposal of cases by blindly placing reliance on a decision is not proper.

15. The following words of Lord Denning in the matter of applying precedents have become locus classicus: (Abdul Kayoom v. CIT, AIR 1962 SC 680

"Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect, in deciding such cases, one should avoid the temptation to decide cases (as said by Cordozo) by matching the colour of one case against the colour of another. To decide therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive."

"Precedent should be followed only so far as it marks the path of justice, but you must cut the dead wood and trim off the side branches else you will find yourself lost in thickets and branches. My plea is to keep the path to justice clear of obstructions which could impede it Ed. See Union of India Vs. Amrit Lal Manchanda, (2004) 3 SCC 75, pp. 83-84, paras 15-18."

During the course of hearing, learned senior counsel for the petitioners could not point out any patent illegality or perversity in the impugned order passed by learned District Judge, which may warrant

interference at the hands of this Court, while exercising its revisional jurisdiction under Article 227 of the Constitution of India. Further, no prejudice, as such, has been found, which might have been caused to the petitioners, by passing the impugned order.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that since no illegality or perversity has been found in the impugned order, the same deserves to be upheld. The revision petition having been found wholly misconceived, bereft of merit and without any substance, must fail. No ground for interference has been made out.

Resultantly, with the abovesaid observations made, present revision petition stands dismissed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

18.08.2017
vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No