



\$~65(Appellate Side)

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 501/2022 & CM APPL. 25511/2022, CM APPL. 25512/2022

CHANDRA PRABHA MAHAJAN Petitioner
Through: Mr. Ishan Sanghi and Mr.
Aashish Prasad, Advs.

versus

PRAVEEN SHARMA & ORS. Respondents
Through: Mr. Praveen Suri, Adv.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR

J U D G M E N T (O R A L)
27.05.2022

%

1. This petition, under Article 227 of the Constitution of India, assails an order dated 12th April, 2022, passed by the learned Principal District & Sessions Judge (“the learned Pr. D & SJ”) in Misc. No. 187/2022 (*Praveen Sharma & Anr. v. Chander Prabha & Ors.*).

2. By the said order, the learned Pr. D & SJ has transferred CS 516/2021 (*Chander Prabha Mahajan v. Shri Charanjit Lal Wason & Ors.*) from the Court in which it was pending to the Court in which CS 448/2021 (*Praveen Sharma & Anr. v. Chander Prabha*) was pending.

3. Chander Prabha, the plaintiff in CS 516/2021 and the defendant in CS 448/2021, assails the order, invoking, for the purpose, the jurisdiction vested in this Court by Article 227 of the Constitution of



India.

Facts

4. The learned Pr. D & SJ has transferred CS 516/2021 to the Court which was hearing CS 448/2021 on the ground that the parties to the suit property in dispute between them were the same.

5. *Stricto sensu*, this observation is not wholly correct as the defendants in CS 516/2021 (*Shri Charanjit Lal Wason & Ors.*) are not parties in CS 448/2021. Praveen Sharma, the plaintiff in CS 448/2021 was also, originally, not a party in CS 516/2021, but Mr. Suri, learned Counsel for Praveen Sharma, submits that, subsequently, he was impleaded by the petitioner in CS 516/2021 by moving an application under Order I Rule 10 of the Code of Civil Procedure, 1908 (CPC).

6. Section 24(b) of the CPC does not, however, envisage identity of parties in the two proceedings as a determining, or even a governing, factor for exercise of jurisdiction, by the District Court for transfer of proceedings from one Court to another:

“24. General power of transfer and withdrawal.

(1) On the application of any of the parties and after notice to the parties and after hearing such of them as desired to be heard, or of its own motion without such notice, the High Court or the District Court may at any stage

(a) transfer any suit, appeal or other proceeding pending before it for trial or disposal



to any Court subordinate to it and competent to try or dispose of the same, or

(b) withdraw any suit, appeal or other proceeding pending in any Court subordinate to it, and

(i) try or dispose of the same; or

(ii) transfer the same for trial or disposal to any Court subordinate to it and competent to try or dispose of the same; or

(iii) retransfer the same for trial or disposal to the Court from which it was withdrawn.”

7. Section 24 does not, therefore, require that, for a suit to be transferred from the Court hearing it to the Court which is seized of a connected matter, the parties in both the proceedings must be the same.

8. There is no dispute about the fact that the property forming subject matter of controversy in CS 448/2021 and CS 516/2021 was the same, i.e. the second floor of the property bearing No. 662/3-A Shivaji Gali, Pandit Park, Krishna Nagar, New Delhi-110051 (hereinafter referred to as “the suit property”).

CS 448/2021 (Praveen Sharma & Anr. v. Chander Prabha)

9. CS 448/2021 (*Praveen Sharma & Anr. v. Chander Prabha*) was filed earlier in point of time. Praveen Sharma and the second



plaintiff therein, Onkar Singh, claimed to be absolute owners of the second floor of the suit property, having purchased the property from Charanjit Lal Wason, Defendant 1 in CS 516/2021. Charanjit Lal Wason's title, enabling him to sell the property to Praveen Sharma, was claimed to arise from a relinquishment deed, dated 19th November, 2020, executed by one Shanti Devi, the original owner of the suit property and the sister of Charanjit Lal Wason.

10. Praveen Sharma claimed to have let out the suit property to Chander Prabha and his wife *vide* an agreement dated 5th September, 2016. Praveen Sharma contended, in his suit, that the period for which the suit property had been let out to Chander Prabha had expired on 4th March, 2019, whereafter Chander Prabha was continuing in possession of the suit property as an unauthorised occupant. As Chander Prabha, allegedly, failed to vacate the property despite legal notices issued by Praveen Sharma, and was also, allegedly, in default of charges payable in respect of the suit property, Praveen Sharma, in CS 448/2021, sought a decree of possession against Chander Prabha, as well as damages, *mesne* profits, and an injunction restraining Chander Prabha from creating any third party interest in respect of the suit property.

CS 516/2021(Chander Prabha Mahajan v.Chranjit Lal Wason &Ors.)

11. Chander Prabha, in the suit instituted by her (CS 516/2021), claimed to be a lawful tenant of the suit property. This, clearly, is contrary to the case set up Praveen Sharma in CS 448/2021, in which Praveen Sharma contended that, after expiry of the tenancy of



Chander Prabha, she continued to occupy the suit property as an unauthorised occupant. Chander Prabha, in her suit, claimed to have taken the suit property on lease from Charanjit Lal Wason and others, the defendants in the said suit. This, again, was contrary to the stand of Praveen Sharma in CS 448/2021, in which Praveen Sharma claimed to have legally obtained ownership of the property consequent to a relinquishment deed executed by the legal representatives of Shanti Devi and to have let out the property subsequently to Chander Prabha.

12. The case set up by Chander Prabha in CS 516/2021 was that Charanjit Lal Wason and others, to whom she claimed to have attorned, were not allowing her to continue in peaceful possession of the suit property, and had also sought to disconnect the electricity and water connections.

13. Predicated on these allegations, CS 516/2021 sought the following prayers:

“It is therefore, most respectfully prayed that this Hon'ble Court may be pleased to: -

- a. pass a decree of permanent injunction in favor of the Plaintiff and against the Defendants thereby, restraining them, their associates, friends, relatives, agents etc. from disconnecting the supply of electricity and water from the suit property bearing No. 662/3-A, 46, 2nd Floor, Shivaji Gali, Pandit Park, Krishna Nagar, Delhi-110051 shown in site plan attached herewith the plaint;
- b. pass a decree of permanent injunction in favor of the Plaintiff and against the Defendants thereby restraining the defendants. their associates, friends, relatives, agents etc. from illegally dispossessing the plaintiff and her family members from the suit property



bearing No. 662/3-A, Upper 2nd Floor, Shivaji Gali, Pandit Park, Krishna Nagar, Delhi-110051, shown in site plan attached herewith the plaint without following due process of law;”

c. pass a decree of permanent injunction in favor of the Plaintiff and against the Defendants thereby restraining them, their associates, friends, relatives, agents etc. from causing trouble and nuisance to the plaintiff and her family members to live in peace and harmony;

d. pass a decree of permanent injunction in favor of the Plaintiff and against the Defendants thereby restraining them, their associates, friends, relatives, agents etc. from creating hindrance, difficulty and obstructions in installation of CCTV Camera by the plaintiff inside and outside Suit Property bearing No. 662/3-A, 46, 2nd Floor Shivaji Gali, Pandit Park, Krishna Nagar, Delhi-110051, shown in site plan attached herewith the plaint for safety purpose;

e. pass a decree of mandatory injunction' in favor of the plaintiff and against the defendants thereby directing the defendants in change the focus of CCTV Camera of defendants which is covering the part of internal portion of suit property bearing No. 662/3-A, 46, 2nd Floor Shivaji Gali, Pandit Park, Krishna Nagar, Delhi-110051, shown in site plan attached herewith the plaint to protect the privacy of plaintiff and her family members;

f. pass a decree of mandatory injunction in favor of the plaintiff and against the defendants thereby directing the defendants to remove their lock from the MCB Box of the Suit Property hearing No. 662/3-A, 46, 2nd Floor Shivaji Gali, Pandit Park, Krishna Nagar, Delhi-110051 and allowing the plaintiff to put her lock on the MCB Box;

g. pass a decree of mandatory injunction in favor of the plaintiff and against the defendants thereby directing the defendants to allow the plaintiff to inspect the water tank, pipeline and water alarm system



pertaining to the suit property being 662/3-A, 46, 2nd Floor Shivaji Gali, Pandit Park, Krishna Nagar, Delhi-110051;

h. pass a decree of mandatory injunction in favor of the plaintiff and against the defendants thereby directing the defendants to make the lift operative for the suit property;

i. pass a decree of mandatory injunction in favor of the plaintiff and against the defendants thereby directing the defendants to repair or replace the, lock of main gate of suit property or alternatively the plaintiff be allowed to affix a fresh door with proper lock system to the main gate of the suit property at the cost of defendants.

J. cost of the Suit may also be awarded; and

k. pass such other and further relief(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case in favour of the plaintiff and against the Defendants.”

Comparison

14. Clearly, there are conflicting facts pleaded in CS 516/2021 and CS 448/2021, even in respect of the owner of the property as well as the landlord to whom Chander Prabha had attorned as a tenant. According to Praveen Sharma, Chander Prabha was the tenant of Praveen Sharma and Onkar Singh, and, consequent to expiry of the tenancy by efflux of time on 4th March, 2019, was continuing in occupation of the suit property as an unauthorised occupant. Chander Prabha, in her suit, on the other hand, claimed to be a lawful tenant in respect of the suit property, and to have attorned, in that regard, to Charanjit Lal Wason. There is no averment, in CS 516/2021 filed by Chander Prabha, of her having ever become a tenant under Praveen



Sharma.

15. Clearly, therefore, the learned Pr. D & SJ is correct in his finding that, if the two suits are permitted to be tried by two different Courts, conflicting findings of fact may arise.

16. Even otherwise, where two suits claim rights in respect of the same property, it is wholesome that they be tried by one Court. It is not possible to predict the orders, interlocutory or final, that either Court may come to pass during the proceedings in the said suits and, therefore, the facts overlap, the suit property in respect of which rights were claimed is the same and the pleadings in the suits are mutually conflicting or irreconcilable, they ought, in the interests of justice, to be tried by one Court.

17. It cannot be said, therefore, that, in the exercise of jurisdiction vested in him by Section 24 of CPC, by learned Pr. D & SJ while passing the impugned order dated 12th April, 2022 was erroneous.

18. Mr. Ishan Sanghi, learned Counsel for the petitioner, has placed reliance on a judgment of a learned Single Judge of the High Court of Karnataka in ***B S Bhagavan Singh v Smt. Sharada Bai***¹.

19. The learned Single Judge, in that case, was concerned with an order transferring a suit from one Court to another and directing clubbing of the suits with the proceedings pending in the latter Court.

¹ AIR 1990 Kar 222



20. The paragraph from the said order – which is merely of six paras - on which Mr. Sanghi seeks to place reliance, reads thus:

“4. It is submitted that O.S. No. 24 of 1982 is at an advanced stage of hearing in as much as the plaintiff has closed her case for evidence and the defendants have also led their evidence. The effect of clubbing the two cases together would be that the plaintiff in the latter suit will insist upon his right to cross-examine all witnesses who have already been examined. That would undoubtedly lead to confusion and more delay. That cannot be denied. But the question is when two or more suits are liable to be clubbed together for convenience and just disposal, is it because the parties are common or is it because the subject-matter of the suit is common or is it because the cause of action from which the suits have arisen are common? It is possible in a given set of cases the said factors may be present and in some other given cases, only one or the other factors may be present. On the facts stated, Sharada Bai never impleaded Nagaraj as the defendant who could question her title in O.S. No. 24 of 1982. Therefore, in that suit, she disclosed no cause of action against Nagaraj but only against the present revision petitioners who are arrayed as defendants in that suit if that suit does not disclose any cause of action against Nagaraj. Merely because Nagaraj has disclosed a cause of action not only against Sharada Bai but also against the defendants in his latter suit, it cannot be said that he should have his suit adjudicated along with the cause of action disclosed by Sharada Bai. He has to lead independent evidence to prove his title as he is the plaintiff in O.S. No. 44 of 1987. He cannot depend upon either the weakness of the case of the plaintiff in O.S. No. 24 of 1982 or on the weakness of the defence of the defendants in O.S. No. 24 of 1982 to substantiate his title.”

21. A reading of the brief order in ***B S Bhagavan Singh¹*** passed by the learned Single Judge of Karnatka, does not reveal the details of the facts of the two suits. Para 4, on which Mr. Sanghi seeks to place



reliance, indicates that the learned Single Judge was of the view that, merely because the cause of action in the two suits was directed against the same party, there was no right vested by the plaintiff to seek adjudication of the suits by one Court.

22. Per contra, the facts of the present case as stated hereinabove clearly disclose that the issues in controversy in CS 448/2021 and CS 516/2021 overlap, conflicting rights have been claimed, conflicting assertions have been made and the possibility of conflicting decisions arising, were the suits to be tried by different courts, cannot be ignored.

23. As such, the judgment in *B S Bhagavan Singh*¹ would not apply to the present case.

24. Even otherwise, Section 24 of CPC does not incorporate any statutory fetters or proscriptions on the exercise, by the learned Pr. D & SJ, of his discretion thereunder. The impugned order is, therefore, fundamentally discretionary in nature. Apropos the scope of interference with discretionary orders, the Supreme Court has, in *Wander Ltd. v. Antox India (P) Ltd.*², held thus:

“14. The appeals before the Division Bench were against the exercise of discretion by the Single Judge. In such appeals, the Appellate Court will not interfere with the exercise of discretion of the court of first instance and substitute its own discretion except where the discretion has been shown to have been exercised arbitrarily, or capriciously or perversely or where the court had ignored the settled principles of law regulating grant or refusal of interlocutory injunctions. An appeal against exercise of discretion is said to be an appeal on

² 1990 Supp SCC 727



principle. Appellate Court will not reassess the material and seek to reach a conclusion different from the one reached by the court below if the one reached by the court was reasonably possible on the material. The appellate court would normally not be justified in interfering with the exercise of discretion under appeal solely on the ground that if it had considered the matter at the trial stage it would have come to a contrary conclusion. If the discretion has been exercised by the Trial Court reasonably and in a judicial manner the fact that the appellate court would have taken a different view may not justify interference with the trial court's exercise of discretion. After referring to these principles Gajendragadkar, J. in *Printers (Mysore) Private Ltd. v. Pothan Joseph*³ said :

“... These principles are well established, but as has been observed by Viscount Simon in *Charles Oseption & Co. v. Johnston* the law as to the reversal by a court of appeal of an order made by a judge below in the exercise of his discretion is well established, and any difficulty that arises is due only to the application of well settled principles in an individual case.”

The appellate judgment does not seem to defer to this principle.”

25. *Wander*² was a case in which the scope of interference with discretionary orders was examined by the Supreme Court in the context of appellate jurisdiction. On a sliding scale, the scope of interference of the Court before whom a challenge to a decision of a hierarchically lower forum is brought would decrease, from appellate, to revisional, to the power of judicial review under Article 226, to supervisory jurisdiction under Article 227 of the Constitution of India, the last being the most restricted.

26. A Court exercising appellate jurisdiction has, axiomatically, all

³ (1960) 3 SCR 713



the powers which vest in the Court trying a suit, as an appeal is, classically, a continuation of the proceedings in the suit. The powers of a revisional Court, under Section 115 of the CPC or under any other cognate provision in any other statute, would be less than that of the power of an appellate court but would, nonetheless, extend to interfering with the order if it is found to not have been passed legally or properly. The power of a writ court exercising *certiorari* jurisdiction under Article 226 would be still further circumscribed and one may, in this context, refer to the following passages from *Syed Yakooob v. K.S. Radhakrishnan*⁴.

“7. The question about the limits of the jurisdiction of High Courts in issuing a writ of certiorari under Article 226 has been frequently considered by this Court and the true legal position in that behalf is no longer in doubt. A writ of certiorari can be issued for correcting errors of jurisdiction committed by inferior courts or tribunals: these are cases where orders are passed by inferior courts or tribunals without jurisdiction, or is in excess of it, or as a result of failure to exercise jurisdiction. A writ can similarly be issued where in exercise of jurisdiction conferred on it, the Court or Tribunal acts illegally or properly, as for instance, it decides a question without giving an opportunity, be heard to the party affected by the order, or where the procedure adopted in dealing with the dispute is opposed to principles of natural justice. There is, however, no doubt that the jurisdiction to issue a writ of certiorari is a supervisory jurisdiction and the Court exercising it is not entitled to act as an appellate Court. This limitation necessarily means that findings of fact reached by the inferior Court or Tribunal as result of the appreciation of evidence cannot be reopened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected

⁴ (1964) 5 SCR 64.



by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by the Tribunal, a writ of certiorari can be issued if it is shown that in recording the said finding, the Tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Similarly, if a finding of fact is based on no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari. In dealing with this category of cases, however, we must always bear in mind that a finding of fact recorded by the Tribunal cannot be challenged in proceedings for a writ of certiorari on the ground that the relevant and material evidence adduced before the Tribunal was insufficient or inadequate to sustain the impugned finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the Tribunal, and the said points cannot be agitated before a writ Court. It is within these limits that the jurisdiction conferred on the High Courts under Article 226 to issue a writ of certiorari can be legitimately exercised. (vide *Hari Vishnu Kamath v. Syed Ahmad Ishaque*⁵, *Nagandra Nath Bora v. Commissioner of Hills Division and Appeals Assam*⁶ and *Kaushalya Devi v. Bachittar Singh*⁷).

8. It is, of course, not easy to define or adequately describe what an error of law apparent on the face of the record means. What can be corrected by a writ has to be an error of law; but it must be such an error of law as can be regarded as one which is apparent on the face of the record. Where it is manifest or clear that the conclusion of law recorded by an inferior Court or Tribunal is based on an obvious mis-interpretation of the relevant statutory provision, or sometimes in ignorance of it, or may be, even in disregard of it, or is expressly founded on reasons which are wrong in law, the said conclusion can be corrected by a writ of

⁵ AIR 1955 SC 233

⁶ AIR 1958 SC 398

⁷ AIR 1960 SC 1168



certiorari. In all these cases, the impugned conclusion should be so plainly inconsistent with the relevant statutory provision that no difficulty is experienced by the High Court in holding that the said error of law is apparent on the face of the record. It may also be that in some cases, the impugned error of law may not be obvious or patent on the face of the record as such and the Court may need an argument to discover the said error; but there can be no doubt that what can be corrected by a writ of certiorari is an error of law and the said error must, on the whole, be of such a character as would satisfy the test that it is an error of law apparent on the face of the record. If a statutory provision is reasonably capable of two constructions and one construction has been adopted by the inferior Court or Tribunal, its conclusion may not necessarily or always be open to correction by a writ of certiorari. In our opinion, it is neither possible nor desirable to attempt either to define or to describe adequately all cases of errors which can be appropriately described as errors of law apparent on the face of the record. Whether or not an impugned error is an error of law and an error of law which is apparent on the face of the record, must always depend upon the facts and circumstances of each case and upon the nature and scope of the legal provision which is alleged to have been misconstrued or contravened.”

27. The power of a Court exercising Article 227 jurisdiction is the most constricted, of the aforesaid four jurisdictions. Apropos the jurisdiction of an Article 227 court, a three Judges Bench of the Supreme Court has, in *Sadhana Lodh v. National Insurance Co. Ltd*⁸, held thus:

“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*

⁸ (2003) 3 SSC 524



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 reweigh the evidence upon which the inferior court or tribunal purports to have passed the order or to correct errors of law in the decision.”

(Emphasis Supplied)

28. In *Ibrat Faizan v. Omaxe Buildhome Pvt. Ltd.*⁹, rendered earlier in this month the Supreme Court, in para 28, again underscored the restricted nature of jurisdiction vested by Article 227, thus:

“The scope and ambit of jurisdiction of Article 227 of the Constitution has been explained by this Court in the case of *Estralla Rubber v. Dass Estate (P) Ltd*¹⁰, which has been consistently followed by this Court (see the recent decision of this Court in the case of *Garment Craft v. Prakash Chand Goel*¹¹). Therefore, while exercising the powers under Article 227 of the Constitution, the High Court has to act within the parameters to exercise the powers under Article 227 of the Constitution. It goes without saying that even while considering the grant of interim stay/relief in a writ petition under Article 227 of the Constitution of India, the High Court has to bear in mind the limited jurisdiction of superintendence under Article 227 of the Constitution. Therefore, while granting any interim stay/relief in a writ petition under Article 227 of the Constitution against an order passed by the National Commission, the same shall always be subject to the rigour of the powers to be exercised under Article 227 of the Constitution of India.”

29. In the aforesaid passage from *Omaxe Buildhome Pvt. Ltd.*⁹, the Supreme Court has relied on its earlier decisions in *Estralla Rubber v. Dass Estate (P) Ltd*¹⁰ and *Garment Craft v. Prakash Chand Goel*¹¹.

⁹ 2022 SCC Online SC 620

¹⁰ (2001) 8 SCC 97



The relevant passages from *Estralla Rubber*¹⁰ and *Garment Craft*¹¹ may also, therefore, be reproduced thus:

Estralla Rubber

“7. This Court in *Ahmedabad Mfg. & Calico Ptg. Co. Ltd. v. Ram Tahel Ramnand*¹² in para 12 has stated that the power under Article 227 of the Constitution is *intended to be used sparingly* and only in appropriate cases, *for the purpose of keeping the subordinate courts and tribunals within the bounds of their authority and, not for correcting mere errors*. Reference also has been made in this regard to the case *Waryam Singh v. Amarnath*¹³. This Court in *Bathutmal Raichand Oswal v. Laxmibai R. Tarte*¹⁴ has observed that the power of superintendence under Article 227 *cannot be invoked to correct an error of fact which only a superior court can do in exercise of its statutory power as a court of appeal and that the High Court in exercising its jurisdiction under Article 227 cannot convert itself into a court of appeal* when the legislature has not conferred a right of appeal. Judged by these pronounced principles, the High Court clearly exceeded its jurisdiction under Article 227 in passing the impugned order.

(Emphasis Supplied)

Garment Craft

15. Having heard the counsel for the parties, we are clearly of the view that the impugned order [*Prakash Chand Goel v. Garment Craft*¹⁵] is contrary to law and cannot be sustained for several reasons, but primarily for deviation from the limited jurisdiction exercised by the High Court under Article 227 of the Constitution of India. *The High Court exercising supervisory jurisdiction does not act as a court of first appeal to reappreciate, reweigh the evidence or facts upon which the determination under challenge is based. Supervisory jurisdiction is not to correct every error of fact or*

¹¹ 2022 SCC OnLine SC 29

¹² AIR 1972 SC 1598

¹³ AIR 1954 SC 215

¹⁴ AIR 1975 SC 1297

¹⁵ 2019 SCC OnLine Del 11943



even a legal flaw when the final finding is justified or can be supported. The High Court is not to substitute its own decision on facts and conclusion, for that of the inferior court or tribunal. [Celina Coelho Pereira v. Ulhas Mahabaleshwar Kholkar¹⁶] The jurisdiction exercised is in the nature of correctional jurisdiction to set right grave dereliction of duty or flagrant abuse, violation of fundamental principles of law or justice. The power under Article 227 is exercised sparingly in appropriate cases, like when there is no evidence at all to justify, or the finding is so perverse that no reasonable person can possibly come to such a conclusion that the court or tribunal has come to. It is axiomatic that such discretionary relief must be exercised to ensure there is no miscarriage of justice.

16. Explaining the scope of jurisdiction under Article 227, this Court in ***Estralla Rubber v. Dass Estate (P) Ltd***¹⁰ has observed : (SCC pp. 101-102, para 6)

“6. The scope and ambit of exercise of power and jurisdiction by a High Court under Article 227 of the Constitution of India is examined and explained in a number of decisions of this Court. The exercise of power under this article involves a duty on the High Court to keep inferior courts and tribunals within the bounds of their authority and to see that they do the duty expected or required of them in a legal manner. The High Court is not vested with any unlimited prerogative to correct all kinds of hardship or wrong decisions made within the limits of the jurisdiction of the subordinate courts or tribunals. Exercise of this power and interfering with the orders of the courts or tribunals is restricted to cases of serious dereliction of duty and flagrant violation of fundamental principles of law or justice, where if the High Court does not interfere, a grave injustice remains uncorrected. It is also well settled that the High Court while acting under this Article cannot exercise its power as an appellate court or substitute its own judgment in place of that of the subordinate court to correct an error, which is not apparent on the face of the record. The High Court can set aside or ignore the findings of facts of an inferior

¹⁶ (2010) 1 SCC 217



court or tribunal, *if there is no evidence at all to justify or the finding is so perverse, that no reasonable person can possibly come to such a conclusion, which the court or tribunal has come to.*”

(Emphasis Supplied)

30. To the same effect are the following words from paras 14 to 16 of the report in *Puri Investments v. Young Friends and Co.*,¹⁷ which read thus:

“14. In the case before us, occupation of a portion of the subject-premises by the three doctors stands admitted. What has been argued by the learned counsel for the appellant is that once the Tribunal had arrived at a finding on fact based on the principles of law, which have been enunciated by this Court, and reflected in the aforesaid passages quoted from the three authorities, the interference by the High Court under Article 227 of the Constitution of India was unwarranted. To persuade us to sustain the High Court's order, learned counsel appearing for the respondents has emphasized that full control over the premises was never ceded to the medical practitioners and the entry and exit to the premises in question remained under exclusive control of the respondent(s)-tenant. This is the main defence of the tenant. We have considered the submissions of the respective counsel and also gone through the decisions of the fact-finding fora and also that of the High Court. At this stage, we cannot revisit the factual aspects of the dispute. Nor can we re-appreciate evidence to assess the quality thereof, which has been considered by the two fact-finding fora. The view of the forum of first instance was reversed by the Appellate Tribunal. *The High Court was conscious of the restrictive nature of jurisdiction under Article 227 of the Constitution of India.* In the judgment under appeal, it has been recorded that it could not subject the decision of the appellate forum in a manner which would project as if it was sitting in appeal. It proceeded, on such observation being made, to opine that *it was the duty of the supervisory Court to interdict if it was found that findings of the appellate forum were perverse. Three situations were spelt out in the judgment under appeal as to when a finding on facts or*

¹⁷ 2022 SCC Online SC 283



questions of law would be perverse. These are: —

- (i) Erroneous on account of non-consideration of material evidence, or*
- (ii) Being conclusions which are contrary to the evidence, or*
- (iii) Based on inferences that are impermissible in law.*

15. *We are in agreement with the High Court's enunciation of the principles of law on scope of interference by the supervisory Court on decisions of the fact-finding forum. But having gone through the decisions of the two stages of fact-finding by the statutory fora, we are of the view that there was overstepping of this boundary by the supervisory Court. In its exercise of scrutinizing the evidence to find out if any of the three aforesaid conditions were breached, there was re-appreciation of evidence itself by the supervisory Court.”*

31. Clearly, therefore, the Court, exercising jurisdiction under Article 227 of the Constitution of India, is even proscribed from entering into the correctness of the impugned order. The jurisdiction is purely supervisory in nature. The Court is concerned more with the Court which passed the order than with the order passed by the Court. So long as the Court passing the order has acted within the legitimate boundaries of its jurisdiction, and the order does not suffer from any such infirmity as calls for supervisory correction, the Article 227 Court would hold its hands.

32. Even more restricted would the said jurisdiction be, when the order, as in the present case, is discretionary in nature, exercised under a provision which does not contain any delimiting proscriptions.



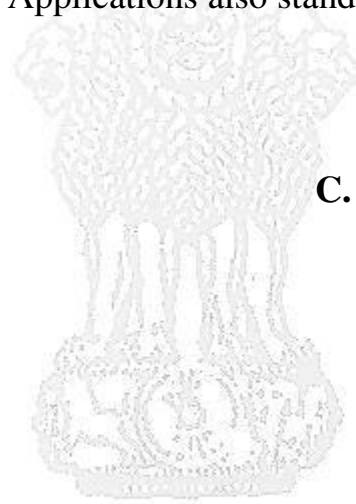
33. Viewed thus, and even otherwise on merits, I find no reason to interfere with the impugned order dated 12th April, 2022, passed by the learned Pr. D & SJ in Misc. No. 187/2022 (***Praveen Sharma & Anr. v. Chander Prabha & Ors***).

34. The order is upheld.

35. The petition is accordingly dismissed in *limine* with no order as to costs. Miscellaneous Applications also stand disposed of.

MAY 27, 2022
dsn

C. HARI SHANKAR, J.



न्यायमेव जयते