

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

**CIVIL REVISION PETITION Nos.2988, 2989, 2994 AND
2995 OF 2022**

COMMON ORDER:

These revision petitions are filed challenging the numbering of respective I.As., which are filed by respondent No.1 to implead as respondent/defendant in the Interlocutory Applications and Original Suits, by the trial Court.

2. Challenge in these revisions is on the ground that the subject I.As. are filed by the same organization i.e., M/s. Muslim Educational, Social and Cultural Organization, but represented by Dr. Kauser Shaheen, who is claiming to be the In-Charge Secretary, to implead as defendant and the same organization cannot be a plaintiff and defendant in the same Suit. Learned counsel for the petitioner contends that when the petitioner filed caveat before the trial Court, the office raised objections on maintainability and sought for information on his entitlement and only after the relevant documents were presented before the scrutiny officer, the caveat petition was numbered, but when it comes to

numbering the subject I.As. filed by respondent No.1 for impleadment, no such objections were raised and without looking into the tenability of filing such applications, the subject applications are numbered.

3. In the counter affidavits filed on behalf of the petitioner herein in the subject I.As., the petitioner has raised specific objection on registering the I.As. on the ground that same organization cannot be a plaintiff and defendant. Who represents the plaintiff is entirely a different aspect. Even assuming that Dr. Mohammed Iftekharuddin is not entitled to represent, it cannot be a ground to file an application to implead as defendant in the name of same organization being represented by another person by name "Dr. Kausar Shaheen".

4. What is contended by the learned counsel for the petitioner may be true, but what is required to be noticed is the petitioner filed counter affidavits raising certain objections before the trial Court on maintainability of I.As. and the trial Court is yet to consider those objections. Even before the

said objections are considered and decision is taken by the trial Court, the present revision petitions are filed, *prima facie* challenging the numbering of subject I.As.

5. At the threshold it is to be noted that this is a revision under Article 227 of the Constitution of India. The scope of revision is limited. In exercise of revisional jurisdiction Court cannot act as a Court of appeal, enter into merits of the findings and upset the decisions of the lower Courts. It is intended to keep the Courts subordinate to it within the bounds of their authority and to warn them not to cross *Laxmana Rekha*. It cannot interfere to correct mere errors of law or fact or just because another view is possible. It can interfere, if there is patent perversity, gross or manifest failure of justice or basic principle of natural justice, are breached. The power under Article 227 of the Constitution of India is discretionary.

6. In **Shalini Shyam Shetty and another v. Rajendra Shankar Patil**¹, the Hon'ble Supreme Court has extensively

¹ (2010) 8 SCC 329

discussed the scope of supervisory jurisdiction of the High Courts under Article 227, by referring to previous leading judgments on the subject and formulated few principles, as extracted here under:

“48. The jurisdiction under Article 226 normally is exercised where a party is affected but power under Article 227 can be exercised by the High Court suo motu as a custodian of justice. In fact, the power under Article 226 is exercised in favour of persons or citizens for vindication of their fundamental rights or other statutory rights. The jurisdiction under Article 227 is exercised by the High Court for vindication of its position as the highest judicial authority in the State. In certain cases where there is infringement of fundamental right, the relief under Article 226 of the Constitution can be claimed ex debito justitiae or as a matter of right. **But in cases where the High Court exercises its jurisdiction under Article 227, such exercise is entirely discretionary and no person can claim it as a matter of right.** From an order of a Single Judge passed under Article 226, a letters patent appeal or an intra-court appeal is maintainable. But no such appeal is maintainable from an order passed by a Single Judge of a High Court in exercise of power under Article 227. In almost all the High Courts, rules have been framed for regulating the exercise of jurisdiction under Article 226. No such rule appears to have been framed for exercise of High Court's power under Article 227 possibly to keep such exercise entirely in the domain of the discretion of High Court.

49. On an analysis of the aforesaid decisions of this Court, the following principles on the exercise of High Court's jurisdiction under Article 227 of the Constitution may be formulated:

(a) A petition under Article 226 of the Constitution is different from a petition under Article 227. The mode of exercise of power by the High Court under these two articles is also different.

(b) In any event, a petition under Article 227 cannot be called a writ petition. The history of the conferment of writ jurisdiction on High Courts is substantially different from the history of conferment of the power of superintendence

on the High Courts under Article 227 and have been discussed above.

(c) High Courts cannot, at the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or courts inferior to it. **Nor can it, in exercise of this power, act as a court of appeal** over the orders of the court or tribunal subordinate to it. In cases where an alternative statutory mode of redressal has been provided, that would also operate as a restraint on the exercise of this power by the High Court.

(d) The parameters of interference by High Courts in exercise of their power of superintendence have been repeatedly laid down by this Court. In this regard the High Court must be guided by the principles laid down by the Constitution Bench of this Court in *Waryam Singh* [AIR 1954 SC 215] and the principles in *Waryam Singh* [AIR 1954 SC 215] have been repeatedly followed by subsequent Constitution Benches and various other decisions of this Court.

(e) According to the ratio in *Waryam Singh* [AIR 1954 SC 215] , followed in subsequent cases, the **High Court in exercise of its jurisdiction of superintendence can interfere in order only to keep the tribunals and courts subordinate to it, “within the bounds of their authority”**.

(f) In order to ensure that law is followed by such tribunals and courts by exercising jurisdiction which is vested in them and by not declining to exercise the jurisdiction which is vested in them.

(g) Apart from the situations pointed in (e) and (f), High Court can interfere in exercise of its power of superintendence **when there has been a patent perversity** in the orders of the tribunals and courts subordinate to it or **where there has been a gross and manifest failure of justice or the basic principles of natural justice have been flouted**.

(h) **In exercise of its power of superintendence High Court cannot interfere to correct mere errors of law or fact or just because another view than the one taken by the tribunals or courts subordinate to it, is a possible view. In other words the jurisdiction has to be very sparingly exercised.**

(i) The High Court's power of superintendence under Article 227 cannot be curtailed by any statute. It has been declared a part of the basic structure of the Constitution by

the Constitution Bench of this Court in *L. Chandra Kumar v. Union of India* [(1997) 3 SCC 261 : 1997 SCC (L&S) 577] and therefore abridgment by a constitutional amendment is also very doubtful.

(j) It may be true that a statutory amendment of a rather cognate provision, like Section 115 of the Civil Procedure Code by the Civil Procedure Code (Amendment) Act, 1999 does not and cannot cut down the ambit of High Court's power under Article 227. At the same time, it must be remembered that such statutory amendment does not correspondingly expand the High Court's jurisdiction of superintendence under Article 227.

(k) The power is discretionary and has to be exercised on equitable principle. In an appropriate case, the power can be exercised suo motu.

(l) On a proper appreciation of the wide and unfettered power of the High Court under Article 227, it transpires that the main object of this article is to keep strict administrative and judicial control by the High Court on the administration of justice within its territory.

(m) The object of superintendence, both administrative and judicial, is to maintain efficiency, smooth and orderly functioning of the entire machinery of justice in such a way as it does not bring it into any disrepute. **The power of interference under this article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and courts subordinate to the High Court.**” (emphasis supplied)

7. Keeping in view the scope of revision filed under Article 227 of the Constitution of India, looking at the facts of the present cases, the issue is at the stage of consideration of objections raised by the petitioner in the respective I.As. on the entitlement of the respondent No.1/applicant to seek impleadment as defendant. This aspect requires consideration by the trial Court. Even before a decision is taken by the trial

Court on the objections raised by the petitioner, in exercise of the revisional jurisdiction, this Court cannot interject the decision making process of the trial Court. Therefore, this Court is not inclined to go into the contentions urged by the learned counsel for the petitioner at this stage.

8. Leaving all the aspects urged before this Court in these revisions open for consideration by the trial Court in the pending I.A.Nos.486, 482, 709 and 710 of 2022, the revision petitions are dismissed.

Miscellaneous Petitions, if any, pending in these Civil Revision Petitions shall stand closed. There shall be no order as to costs.

P. NAVEEN RAO, J

Date: 06-01-2023.
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