



CRP No.4003 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2024

CORAM

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

Civil Revision Petition No.4003 of 2024

1.M.K.Muthumanickam

2.Radhika

3.M.K.Devasenathipathi

4.Saranya

: Petitioners

versus

1.K.Srinivasan

2.S.Jananathan

: Respondents

Prayer: Revision petition filed against the order passed in IA No.5 of 2022 in OS No.167 of 2020 dated 07.01.2023 on the file of the District Munsif Court, Sulur, Coimbatore District.

For Petitioners

: Mr.R.Jayaprakash



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ORDER

This revision petition arises against the order passed by learned District Munsif at Slur, Coimbatore District, in I.A.No.5 of 2022 in O.S.No.167 of 2020, dated 07.01.2023.

2. The revision petitioners are the defendants in the suit.

3. O.S.No.167 of 2020 is a suit for permanent injunction to restrain the defendants from running a coir factory in the suit 'C' schedule mentioned property. The plea of the plaintiffs is that on account of running the coir factory in the 'C' schedule mentioned property, which is adjacent to their lands, water and air over their lands are getting affected.

4. Pending suit, the defendants took out an application in IA No.5 of 2022, to reject the plaint. Their sole and only plea is that after the creation of the National Green Tribunal, pursuant to the National Green Tribunal, Act, 2010, [hereafter referred to as, 'the NGT Act of 2010']



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the jurisdiction of the Civil Court is barred and therefore, the plaint deserves to be rejected.

5. The plaintiffs filed a detailed counter to the same. They pleaded that Section 29 of the NGT Act of 2010 does not bar the suit. Hence, the suit is not liable to be rejected. They further pleaded that the suit is based on private nuisance that has been caused by the defendants and hence, sought for dismissal of the application.

6. Learned District Munsif, Sulur, heard both sides and came to a conclusion that the NGT Act of 2010 is not a bar to maintain the civil suit. She dismissed the petition on 07.01.2023. Aggrieved by the said order, defendants are on revision.

7. I heard Mr.R.Jayaprakash for the petitioners.

8. Mr.Jayaprakash invites my attention to Sections 2(1)(c), 14 and 29 of the NGT Act of 2010 and argues that by virtue of these provisions, the jurisdiction of the Civil Court is barred. He adds that the very issue relating to the coir industry in Coimbatore District was the subject-matter of proceedings before the National Green Tribunal, Principal Bench at Delhi, in OA No.216 of 2020 and points out to the



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order passed by the said Tribunal on 25.08.2021.

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9. I have carefully considered the submissions of Mr.Jayaprakash.

10. Section 29(2) of the NGT Act of 2010 holds that no civil court will have jurisdiction to settle disputes or entertain any question relating to any claim or compensation or restitution etc. which may be adjudicated by the Tribunal. 'Tribunal' referred to in Section 29 of the NGT Act of 2010 is the Tribunal constituted under Section 3 of the said Act. This is clear from Section 2(1)(n) of the said Act.

11. If I were to agree with Mr.Jayaprakash, then any matter relating to environment would have to go to the National Green Tribunal. In my view, that will be enlarging the scope of Section 14 of the NGT Act of 2010.

12. As per Section 14(1) of the NGT Act of 2010, the National Green Tribunal has jurisdiction over all civil cases where a substantial question of law relating to environment is involved and such substantial question of law arises out of the implementation of the



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enactments specified in Schedule I to the legislation. Therefore, this Section requires two important aspects:

- (i) it must relate to implementation of the enactments referred to Schedule I;
- (ii) during the course of implementation, it must have given rise to a substantial question of law.

13. Only if it is covered under Section 14 of the NGT Act of 2010, does the exclusion of jurisdiction under Section 29(2) of such Act operates. This is because of the usage of the words, "which may be adjudicated by the Tribunal as found under Section 29(2)".

14. A combined reading of Section 14 and Section 29(2) of the NGT Act of 2010, leads me to conclude that a "substantial question of law" must be involved and this substantial question of law must relate to implementation of the legislations found in the schedule. It must be a case which requires adjudication by the Tribunal. Therefore, all private disputes between the parties is certainly not within the contemplation of Section 14(1) and Section 29(2) of the NGT Act of 2010.



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15. As to what is a substantial question of law has already been settled by the Supreme Court in *Sir Chunilal V. Mehta And Sons, Ltd vs The Century Spinning And Manufacturing [1962 AIR 1314]*. Therefore, I need not strain myself too much on that issue.

16. A reading of the plaint shows that it is a simple private dispute between the plaintiffs and the defendants and no substantial question of law is involved in the said dispute.

17. I would also refer to a very recent judgment of the Supreme Court in *Chalasani Udaya Shankar and others vs. Lexus Technologies Pvt. Ltd and ors. (2024 SCC OnLine SC 2451 = 2024 (5) MLJ 390)*. The Supreme Court, in paragraph 33 of the said judgment, has held that unless and until exclusive jurisdiction is conferred on a Tribunal constituted under an Act, the jurisdiction of the civil court would not be ousted. In order to reach the said conclusion, the Supreme Court relied upon the classic judgment of that Court in *Dhulabhai vs. State of Madhya Pradesh [1968(3) SLR 662]*.

18. I have to add that the jurisdiction of the civil court is plenary



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and the Act, which seeks to exclude the jurisdiction of the civil court, should be read strictly.

19. Applying the principles laid down by the Supreme Court to the facts of the case, I necessarily have to come to the conclusion that Section 14 read with Section 29 of the NGT Act of 2010 does not bar the jurisdiction of the civil court to entertain suits which seek for injunctive or relief on damages with respect to alleged private nuisance created by one person as against another. The jurisdiction will stand ousted only if it raises a substantial question of law relating to the implementation of the Act found in Schedule I of the NGT Act of 2010.

20. In the light of the above discussion, I am not inclined to entertain the revision petition. The civil revision petition is dismissed. There will be no order as to costs. Consequently, CMP No.21949 of 2024 also stands dismissed.

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V. LAKSHMINARAYANAN, J.

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