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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-4986-2016 (O&M)
Date of decision : 18.10.2024

PREETJOT KAURPetitioner

Versus

HARDEEP SINGHRespondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Namit Gautam, Advocate
for the petitioner.

Mr. Ajaivir Singh, Advocate
for the respondent.

PANKAJ JAIN, J. (ORAL)

Instant revision petition is directed against the order dated 31st of May, 2016 passed by Civil Judge (Junior Division), Ludhiana whereby the application filed under Order 6 Rule 17 CPC by the respondent/plaintiff seeking amendment in the plaint has been allowed.

2. For convenience, the parties hereinafter are referred to by their original position in the suit i.e. the petitioner as the defendant and the respondent as the plaintiff.

3. Plaintiff filed suit for possession w.r.t. possession of property bearing house No.7775/8, New Janta Nagar, Gill No.2, ATI Road, Ludhiana. The property was also described by boundaries.

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4. Suit was contested by the defendant. Among the other preliminary objections, it was specifically pleaded that the plaintiff has no connection with the property bearing No.7775/8, New Janta Nagar, Gill No.2, ATI Road, Ludhiana i.e. the property mentioned in the head-note of the plaint.

5. The present application was moved by the plaintiff seeking amendment of the plaint to the effect that inadvertently and due to typographical mistake the description of the suit property was wrongly written as property bearing No.7775/8, New Janta Nagar, Gill No.2, ATI Road, Ludhiana instead of bearing M.C. No.7775/8/1, New Janta Nagar, Gill No.2, ATI Road, Ludhiana.

6.. The application was contested by the defendant/petitioner claiming that the same has been moved at a fag end of the trial.

7. Trial Court vide impugned order allowed the application holding that the number of the property having been mentioned wrongly owing to typographical mistake, the amendment was necessary to adjudicate the *lis* effectively. While allowing the application, Trial Court specifically put the plaintiff to the condition that no fresh evidence will be led *qua* the amendment.

8. Mr. Gautam counsel for the petitioner/defendant submits that the amendment has been allowed at a fag end. He further submits that after the defendant specifically pleaded in the written statement that the plaintiff

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had no concern with the property bearing No.7775/8, it cannot be stated that the plaintiff was not within the knowledge of the said fact and thus the present application at the fag end is *bona fide*. He further submits that the entire evidence has been led w.r.t. 7775/8 and even the site plan is w.r.t. 7775/8 not w.r.t. 7775/8/1.

9. I have considered rival contentions of the parties.

10. Present revision has been filed under Article 227 of the Constitution of India. While explaining the scope of Article 227 and supervisory jurisdiction conferred on High Court, Supreme Court in the case of **Sadhana Lodh vs. National Insurance Company Limited and others, (2003) 3 SCC 524** observed as under:

“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 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 re-weigh the evidence upon which the inferior court or Tribunal purports to have passed the order or to correct errors of law in the decision.”

11. While dealing with revisional proceedings arising out of order deciding application seeking amendment of pleadings, Apex Court in the case of **M/s Estralla Rubber vs. Dass Estate (Pvt.) Ltd., (2001) 8 SCC 97**

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dealt with the scope of Article 227 of Constitution of India observing as under:

“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 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 duty expected or required by 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 courts subordinate or tribunals. Exercise of this power and interfering with the orders of the courts or tribunal is restricted to cases of serious dereliction of duty and flagrant violation of fundamental principles of law or justice, where if 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 inferior 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.

7. This Court in *Ahmedabad Mfg. & Calico Ptg. Co. Ltd vs. Ramtahel Ramanand and Ors. [AIR 1972 SC 1598]* 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 & Anr. vs. Amarnath & Anr. [1954 SCR 565]*. This court in *Babhutmal Raichand Oswal vs. Laxmibai R. Tarte and Anr. [AIR*

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1975 SC 1297] 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.”

12. Aforesaid dictum has been reiterated by Apex Court in the case of **M/s Garment Craft vs. Prakash Chand Goel, (2022)4 SCC 181** observing as under:

“18. Having heard the counsel for the parties, we are clearly of the view that the impugned order 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 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. [1*] 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. Explaining the scope of

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jurisdiction under Article 227, this Court in *Estralla Rubber v. Dass Estate (P) Ltd. (2001) 8 SCC 97* has observed:-

[1* *Celina Coelho Pereira (Ms) and Others v. Ulhas Mahabaleshwar Kholkar and Others, (2010) 1 SCC 217*]

"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 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."

13. *M/s Garment Craft's case* (supra) was further relied upon in the case of *Ibrat Faizan vs. Omaxe Buildhome Private Limited, 2022 AIR Supreme Court 2363* observing as under :

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“14. xxxx However, at the same time, it goes without saying that while exercising the powers under Article 227 of the Constitution of India, the High Court subjects itself to the rigour of Article 227 of the Constitution and the High Court has to exercise the jurisdiction under Article 227 within the parameters within which such jurisdiction is required to be exercised.

14.1 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., (2001) 8 SCC 97*, 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, 2022 SCC Online SC 29*). 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.”

14. Same is the ratio of law laid down in the case of **M/s Puri Investments vs. M/s Young Friends and Co. and others, 2022 (1) RCR (Rent) 311** wherein Apex Court held as under:

“13. There was no perversity in the order of the Appellate Tribunal on the basis of which the High Court could have interfered. In our view, the High Court tested the legality of the

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order of the Tribunal through the lens of an appellate body and not as a supervisory Court in adjudicating the application under Article 227 of the Constitution of India. This is impermissible. The finding of the High Court that the appellate forum's decision was perverse and the manner in which such finding was arrived at was itself perverse.”

15. Thus, it is evident that while exercising jurisdiction under Article 226 of the Constitution of India, this Court has to deal with the manner in which Court below has exercised jurisdiction rather than correctness of order.

16. In the considered opinion of this Court, once the defendant's case is that the evidence has been led w.r.t. property bearing No.7775/8 with which the plaintiff has no concern and by way of present amendment, the property number has been changed from 7775/8 to 7775/8/1, no prejudice will be caused to the defendant. Obviously, the fact that the evidence led by the plaintiff is beyond pleadings would be an arrow in the armour of the defendant.

17. Keeping in view the scope of the amendment as interpreted by the Apex Court in the case of **Life Insurance Corporation of India vs. Sanjeev Builders Private Limited and another, 2022 AIR Supreme Court 4256**, this Court does not find any reason to interfere in the present revision petition. Consequently, the same is ordered to be dismissed being without merit.

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18. Pending application, if any, shall also stand disposed off.

October 18, 2024
Dpr

(Pankaj Jain)
Judge

Whether speaking/reasoned : Yes
Whether reportable : Yes