

Supreme Court of India

Sri Jeyaram Educational Trust & ... vs A.G.Syed Mohideen & Ors on 22 January, 2010

Author: R.V.Raveendran

Bench: R.V. Raveendran, K.S. Radhakrishnan

Reportable

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 852 OF 2010
(Arising out of SLP (C) No.22962 of 2008)

Sri Jeyaram Educational Trust & Ors.

... Appellants

Vs.

A.G.Syed Mohideen & Ors.

... Respondents

JUDGMENT

R.V.RAVEENDRAN, J.

Leave granted. Heard learned counsel for the appellants and respondents. We have also heard the learned counsel for the State of Tamil Nadu and Registrar General of the Madras High Court to whom notices had been issued in regard to the interpretation of section 92 of the Code of Civil Procedure ('Code' for short), with reference to the State Government Notification No. GOM No.727 dated 8.3.1960.

2. The respondents instituted a suit (OS No. 13 of 2006) on the file of the Principal District Judge, Cuddalore against the appellants under Section 92 of Code, seeking a direction to the second appellant to repay all the amounts spent by him after 20.6.2005 contrary to the terms of the supplementary deed of Trust, and also to convene the Trust meeting for approval of the income and expenditure and other consequential reliefs.

3. Appellants 2 to 4 herein filed a memo before the District Court stating that having regard to the decision of the Madras High Court in P. S. Subramanian v. K. L. Lakshmanan - 2007 (5) Mad. L.J. 921, the court did not have jurisdiction to entertain any suit under section 92 of the Code and therefore the suit may be transferred to the file of the Principal Subordinate Judge, Cuddalore. The learned District Judge rejected the said memo by order dated 1.8.2007 holding that he had jurisdiction to entertain the suit, as the value of the suit was Rs.10 lakhs. The revision filed by the appellants, challenging the said order of the District Court, was dismissed by the Madras High Court by the impugned order dated 25.4.2008. The said judgment is challenged in this appeal by special leave. The only question that arises for consideration in this appeal is whether a District Court in the State of Tamil Nadu, does not have jurisdiction to try a suit under section 92 of the Code.

4. Section 92 relates to public charities. It enables a suit being filed in the case of any alleged breach of any express or constructive Trust created for public purposes of a charitable or religious nature, 'in the Principal Civil Court of original jurisdiction or in any other Court empowered in that behalf by the State Government within the local limits of whose jurisdiction the whole or any part of the subject-matter of the Trust is situate'.

4.1) Section 2(4) of the Code extracted below, while defining the term 'district', in effect defines the terms 'district court' :

"2(4). 'district' means the local limits of the jurisdiction of a principal Civil Court of original jurisdiction (hereinafter called a "District Court"), and includes the local limits of the ordinary original civil jurisdiction of a High Court." 4.2) Section 9 of the Code provides that the courts shall (subject to the provisions of the Code) have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred. Sections 15 to 19 of the Code deal with place of suing. Section 15 requires every suit to be instituted in the court of the lowest grade competent to try it.

4.3) Section 6 of the Code deals with pecuniary jurisdiction and provides as follows :

"6. Pecuniary jurisdiction : Save in so far as is otherwise expressly provided, nothing herein contained shall operate to give any Court jurisdiction over suits the amount or value of the subject-matter of which exceeds the pecuniary limits (if any) of its ordinary jurisdiction."

4.4) Section 10 of the Tamil Nadu Civil Courts Act, 1873 (for short 'Civil Courts Act') empowers the state government to fix, and from time to time vary, the local limits of the jurisdiction of any District Court or Sub-ordinate Judge's court under that Act. Section 12 of the Civil Courts Act (as amended by Amendment Act No.1 of 2004), deals with the jurisdiction of the District Judge and the Subordinate Judge is extracted below:

"12. The jurisdiction of a District Judge extends, subject to the rules contained in the Code of Civil Procedure, to all original suits and proceedings of a civil nature, of which the amount or value of the subject matter exceeds five lakh rupees. The jurisdiction of a Sub-ordinate Judge extends, subject to the rules contained in the Code of Civil Procedure, to all like original suits and proceedings, of which the amount or value of the subject matter exceeds one lakh rupees but does not exceed five lakh rupees."

4.5) By a notification dated 8.3.1960 issued in exercise of power under section 92(1) of the Code, in supersession of the Judicial Department Notification No.719 dated 17.10.1910, the Governor of Madras invested all courts of Subordinate Judges in the State of Madras with jurisdiction under the Code in respect of suits relating to Trusts created for public purposes of a charitable and religious nature.

5. The appellants submit that on a true interpretation of section 92 of the Code, the District Court as the Principal Civil Court of original jurisdiction in a district had jurisdiction to try suits relating to public Trusts till 8.3.1960, having regard to the provisions of section 92 of the Code; and that once the State Government issues a notification in exercise of power under section 92 empowering courts of the Sub-ordinate Judges to entertain suits under section 92, the District Court ceased to have jurisdiction to try suits under the said section. In support of their contention, they strongly relied upon the decision of a learned Single Judge in the case of P.S. Subramanian (supra) wherein it was held that the word "or" occurring between the words "may institute a suit in the Principal Civil Court of original jurisdiction" and "in any other court empowered in that behalf by the State Government" in section 92 of the Code, should have to be read as substitutive and not as disjunctive or alternative.

6. It is now well settled that a provision of a statute should have to be read as it is, in a natural manner, plain and straight, without adding, substituting or omitting any words. While doing so, the words used in the provision should be assigned and ascribed their natural, ordinary or popular meaning. Only when such plain and straight reading, or ascribing the natural and normal meaning to the words on such reading, leads to ambiguity, vagueness, uncertainty, or absurdity which were not obviously intended by the Legislature or the Lawmaker, a court should open its interpretation tool kit containing the settled rules of construction and interpretation, to arrive at the true meaning of the provision. While using the tools of interpretation, the court should remember that it is not the author of the Statute who is empowered to amend, substitute or delete, so as to change the structure and contents. A court as an interpreter cannot alter or amend the law. It can only interpret the provision, to make it meaningful and workable so as to achieve the legislative object, when there is vagueness, ambiguity or absurdity. The purpose of interpretation is not to make a provision what the Judge thinks it should be, but to make it what the legislature intended it to be.

7. Section 92 provides that a suit under that section can be instituted "in the Principal Civil Court of original jurisdiction or in any other court empowered in that behalf by the State Government". When it is read in a normal manner, it means that the suits under section 92 should be filed in the district court or in the sub-ordinate court. When the language is clear and unambiguous and when there is no need to apply the tools of interpretation, there is no need to interpret the word 'or', nor any need to read it as a substitutive word, instead of its plain and simple meaning denoting an 'alternative'.

8. Assuming that there was any need for applying the principles of interpretation, let us next consider whether the word 'or' was used in section 92 of the Code in a substitutive sense. It is clear from section 92 of the Code that the legislature did not want to go by the general rule contained in section 15 of the Code that every suit shall be instituted in the court of the lowest grade competent to try it, in regard to suits relating to public Trusts. The intention of the law makers was that such suits should be tried by the District Court. At the same time, the law makers contemplated that if there was heavy work load on the District Court, the State Government should be enabled to empower any other court (within the local limits of whose jurisdiction, the whole or any part of the subject matter is situate), also to entertain such suits. Therefore, the word "or" is used in the ordinary and normal sense, that is to denote an alternative, giving a choice. The provisions of section 92 do not give room for interpreting the word "or" as a substitutive, so as to lead to an interpretation that when the

Government notified any other court, such notified court alone will have jurisdiction and not the District Court. If the intention was to substitute the Court empowered by the State Government in place of the Principal Civil Court of Original jurisdiction, instead of the words 'may institute a suit in the Principal Civil Court of original jurisdiction or in any other court empowered in that behalf by the State Government', the following words would have been used in the section :

'may institute a suit in the principal Civil Court of original jurisdiction, or when any other court is empowered in that behalf by the State Government, then in such court empowered by the state government,' OR 'may institute a suit in the court notified by the state government.'

9. The provisions of section 12 of the Civil Courts Act specifying the pecuniary limits of District Courts and Sub-ordinate Courts, is subject to the provisions of the Code of Civil Procedure. In view of the express provisions of section 92 specifying the courts which will have jurisdiction to entertain suits under that section, neither the provisions of sections 15 to 20 of the Code nor the provisions of section 12 of the Civil Courts Act will apply to such suits. Section 92 is a self contained provision, and conferment of jurisdiction in regard to suits under that section does not depend upon the value of the subject matter of the suit. Therefore, insofar as the suits under section 92 are concerned, the District Courts and Sub-ordinate Courts will have concurrent jurisdiction without reference to any pecuniary limits. We find that the learned District Judge had held that he had jurisdiction because the value of the subject matter was Rs.10 lakhs, apparently keeping in view, section 12 of the Civil Courts Act. We make it clear that the pecuniary limits mentioned in section 12 of the Civil Courts Act, do not apply to suits under section 92 of the Code. In fact, if section 12 of the Civil Courts Act is applied to decide the jurisdiction of courts with reference to suits under section 92 of the Code, it will then lead to the following anomalous position: The District Court will have jurisdiction if the value of the subject matter exceeds Rs.5 lakhs. The Sub-ordinate Court will have jurisdiction where the value of the subject matter exceeds Rs.1 lakh but does not exceed to Rs.5 lakhs. That would mean that a suit under section 92 of the Code, where the subject matter does not exceeds Rs.1 lakh, cannot be filed in any court as section 92 confers jurisdiction only on District Court and Sub-ordinate Courts. This obviously was not intended. Be that as it may.

10. We do not therefore approve the decision of the learned Single Judge of the Madras High Court in PS Subramanian which ignores the earlier decisions of that court and decisions of other High Courts which have consistently taken the view that where jurisdiction is also conferred on any other court by the state government by a notification (under section 92 of the Code or under any similar provision), then that court and the District Court will have concurrent jurisdiction. We may in this behalf refer to the decisions in Annamalai vs. Slaiyappa - AIR 1935 Mad. 983, Dakor Temple Committee vs. Shankerlal - AIR 1944 Bom. 300, R. Rama Subbarayalu Reddiar vs. Rengammal - AIR 1962 Madras 450, and Pazhukkamattom Devaswom vs. Lakshmi Kutty Amma - 1980 Kerala LT 645.

11. In view of the above, the appeal is dismissed. The learned District Judge will proceed to decide the suit expeditiously.

_____J.

(R V Raveendran)

New Delhi;
January 22, 2010.

-----J.
(K S Radhakrishnan)