BLOGS

Important Judgements for CLAT PG 2024: M/s Garment Craft v. Prakash Chand Goel

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Recently, the Supreme Court of India, in the case of Garment Craft v. Prakash Chand Goel, explained the revisional jurisdiction of high courts under Article 227 of the Constitution of India.

The two-judge bench of Justice Sanjiv Khanna and Bela M. Trivedi has held that the revisional jurisdiction is not to correct every error if the final finding is ultimately found correct. While exercising supervisory jurisdiction, High Courts cannot re-appreciate evidence as courts of first appeal. The bench further held that the power mentioned under Article 227 should be used sparingly and in appropriate cases, like where there is no evidence to support the facts or the finding is found to be so pervasive that no reasonable person would come to such a conclusion.

Facts of the Case

In 2011, Prakash Chand Goel (respondent) filed a civil suit before the Delhi High Court for the recovery of Rs. 81,24,786.23p against Garment Craft (appellant), who contested the suit by claiming that the goods were not accepted or returned due to reasons mentioned in debit notes, and in fact, the respondent owed Rs. 88,785/- to the appellant.

In the course of trial, on September 29, 2015, Shailendra Garg, the sole proprietor of the appellant, was arrested by the Rajasthan Police in an unrelated case, and thereafter, on October 6, 2015, he was sent to judicial custody and detained in Central Jail, Jaipur. He was later released on bail. It was the appellant's case that, due to the detention, the appellant was prevented from effectively contesting and participating in the civil suit. Consequently, the Joint Registrar, Delhi High Court, directed the closure of the defense evidence. On raising the plea of pecuniary jurisdiction, the suit was transferred to the court of District Judge Tis Hazari, Delhi.

As Shailendra Garg was incarcerated, the Additional District Judge (Central), Tis Hazari, Delhi, observed that the counsel for the appellant should have filed an application for the issuance of a production warrant to enable Shailendra Garg to appear before court. A cost of Rs. 5,000 was imposed, and the case was adjourned for the recording of defense evidence.

Later, an ex-parte judgment was passed, decreeing the suit filed by the respondent in the sum of Rs. 81,24,786.23p, along with pendente lite interest at the rate of 24 percent per annum and post-decree interest at the rate of 18 percent per annum till realization.

After that, Shailendra Garg was released on bail on May 6, 2017. Within 10 days of his release, he filed an application for the ex-parte decree to be overturned under Order IX Rule 13 of the Code of Civil Procedure, 1908.

In particular, it was said that the High Court didn't issue a production warrant for Shailendra Garg to show up before closing the defense's case, even though a production warrant had already been issued and Constable Jitendra Kumar had shown up to ask questions. After looking at the facts, the application was approved under Order IX Rule 13 of the Code. The ex-parte decree was thrown out, given its original number, and put on the list of defense evidence.

Scope of Article 227

The Supreme Court has previously held that under Article 227, the High Courts have general supervision powers over all courts and tribunals, and that this power is not subject to procedural technicalities or traditional fetters. The powers granted to the High Courts under Article 227 are limited in comparison to those granted under article 226. So, this power under Article 227 should only be used to make sure that lower courts and tribunals stay within the limits of their authority and not to fix every mistake they make.

Article 226 and 227

A general practice has been observed where, just to avoid the objections, writ petitions are filed before High Courts under Article 226 read with Article 227 of the Constitution of India. However, as explained earlier, the powers and scope of both articles are very different. The power to issue writs under 226 is different from the power of superintendence under 227.

The said situation was discussed by the Supreme Court in the case of *Umaji Keshao Meshram v. Rashika Bai*, where the court held that "the fact that the same result can at times be achieved by two different processes does not mean that these two processes are the same." Their source and origin are different, and the models upon which they are patterned are also different. It was also further elaborated that "High Courts do not have unlimited powers to correct all species of hardship or wrong decisions made within their jurisdiction."

While 226 relates to original jurisdiction and 227 relates to revisional jurisdiction, both of these articles also operate under different situations and in different areas.

The Hon'ble Supreme Court in the case of *Radhey Shyam & Anr v. Chhabi Nath & Ors* has held that "the parameters for the exercise of jurisdiction under Articles 226 or 227 of the Constitution cannot be tied down in a straitjacket formula or rigid rules, and the exercise is discretionary."

Therefore, the judicial orders passed by a civil court can be challenged only under Article 227 and cannot be amended by issuing a writ of certiorari under Article 226.

The Supreme Court in *Shyam Shetty v. Rajendra Shankar Patil* has held that the order passed by the trial court has not resulted in a gross and manifest failure of justice, nor has there been any legality or perversity committed by the court, and therefore the petitioner, instead of filing a petition under 227, should have filed an application before the trial court itself. This has also been laid down in the case of *Nivedita Sharma v. Cellular Operators Association of India and Ors.* where the Supreme Court has held that if an alternative remedial mechanism is provisioned under the statute itself, then in that case filing writ petitions as a remedial recourse shall be discouraged.

Hence, the power under Article 227 cannot be used to interfere with the orders of the subordinate court in a routine manner or be taken as a right of appeal just to point out errors of law or fact in the orders or decisions of subordinate courts.

Court's Observation

The Supreme Court decided that the fact that the appellant's lawyer asked for a certified copy showed that the appellant's lawyer knew that the ex-parte decree had been made because the defense failed to present evidence.

This would not, however, be a good ground and reason to set aside and substitute the opinion formed by the trial court that the appellant being incarcerated was unable to lead evidence and another chance should be given to the appellant to lead defense evidence.

Justice Khanna observed that the discretion exercised by the trial court in granting relief, did not suffer from an error apparent on the face of the record or was not a finding so perverse that it was unsupported by evidence to justify it.

There could be some justification for the respondent to argue that the appellant was possibly aware of the ex-parte decree and therefore the submission that the appellant came to know of the

ex-parte decree only on release from jail is incorrect, but this would not affect the factually correct explanation of the appellant that he was incarcerated and could not attend the civil suit proceedings.

Accordingly, the Apex Court restored the order passed by the Additional District Judge, (Central), Tis Hazari, Delhi, allowing the application under Order IX Rule 13 of the Code and setting aside the ex-parte decree.

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