2023:APHC:16620

HIGH COURT OF ANDHRA PRADESH

MONDAY ,THE EIGHTH DAY OF MAY

TWO THOUSAND AND TWENTY THREE

PRSENT

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

CIVIL REVISION PETITION NO: 1262 OF 2023

Between:

1. K.MUNIRATHNAM s/o late A. Munaswamy, Hindu, aged 68 years, residing at Mallamagunta village, Tirupati Rural Mandal, Chittoor District.

...PETITIONER(S)

AND:

1. JAKKADANAM RADHA , w/o J. Mohan, Hindu, aged abut 54 years, residing at Rayalacheruvu village, Ramachandrapuram Mandal, Chittoor District.
2. Anjuru Janaki @ J. JanakiNirmala, D/o Late Munaswamy, Hindu, aged 59 years, residing at Mallamagunta village, Tirupati Rural Mandal, Chittoor District.

...RESPONDENTS

Counsel for the Petitioner(s): V N CHAKRAPANI

Counsel for the Respondents: MAHESWARA RAO KUNCHEAM

The Court made the following: ORDER

2023:APHC:16620

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI

CIVIL REVISION PETITION NO. 1262 OF 2023

JUDGMENT:-

1) Heard Sri. V.N. Chakrapani, learned Counsel for the Petitioner and Sri. Maheswara Rao Kuncheam, learned Counsel for the Respondent No. 1.

2) The Plaintiff/Respondent No. 1 filed O.S. No. 454 of 2010 in the Court of Junior Civil Judge, Tirupathi for declaration, possession, permanent injunction and damages. It was later on transferred and registered as O.S. No. 285 of 2014 [Jakkadanam Radha Vs. Anjuru Janaki @ J. Janaki @ Nirmala and another] and is pending before IIIrd Additional District Judge, Tirupati.

3) The Petitioner is the Defendant No. 2; the 1st Respondent is the Plaintiff and the 2nd Respondent is Defendant No. 1, in O.S. No. 285 of 2014 pending in the Court of IIIrd Additional District Judge, Tirupati.

4) The 2nd Respondent filed written statement.

5) The Petitioner did not file written statement.

6) On 15.11.2010, Order to proceed exparte was passed against the Petitioner.

7) After twelve [12] years, the Petitioner, on 20.04.2022, filed I.A. No. 821 of 2022, to set-aside the Order, dated 15.11.2010 under Order IX Rule 7 Code of Civil Procedure [in short '**C.P.C.**']

8) I.A. No. 821 of 2022 has been rejected by the Order, dated 06.12.2022, which is impugned in this Petition filed under Article 227 of the Constitution of India.

9) Sri. V.N. Chakrapani, submits that the elders in the Village intervened to settle the dispute. The Petitioner believed that the dispute would be resolved, but recently the Petitioner came to know that the 1st Respondent was contesting the case and consequently the application was filed for setting aside the Order, dated 15.11.2010.

10) Sri. Maheswara Rao Kuncheam, submits that the plea of elderly intervention for settlement is incorrect.

11) He submits that the application was filed after twelve [12] years which is highly belated. The Suit is at the stage

of cross-examination of Plaintiff No.1. There is no illegality in rejection of the Petitioner's I.A. No.821 of 2022.

12) I have considered the submissions advanced by the learned Counsels for the parties and perused the material on record.

13) The point for consideration is, *"whether the impugned order deserves to be set-aside."*

14) Order IX Rule 7 C.P.C. provides as under:-

> *"**7. Procedure where defendant appears on day of adjourned hearing and assigns good cause for previous non-appearance**: --- Where the Court has adjourned the hearing of the suit ex-parte, and the defendant, at or before such hearing, appears and assigns good cause for his previous non-appearance, he may, upon such terms as the Court directs as to costs or otherwise, be heard in answer to the suit as if he had appeared on the day fixed for his appearance."*

15) In ***Arjun Singh v. Mohindra Kumar***[1] the Hon'ble Apex Court held that the opening words of Order IX, Rule 7 CPC are "Where the Court has adjourned the hearing of the suit *ex parte*". It was held that they assume that there is to be a hearing on the date to which the suit stands

[1] AIR 1964 SC 993

adjourned. If the entirety of the 'hearing' of the suit has been completed and the Court being competent to pronounce the judgment then and there, adjourns the suit merely for the purpose of pronouncing judgment under Order XX, Rule 1, there is clearly no adjournment of 'the hearing' of the suit, for there is nothing more to be heard in the suit.

16) It is apt to refer paragraph No.18 in ***Arjun Singh*** (supra) as under:

> *"**18.** So far as the case before us is concerned the order under appeal cannot be sustained even on the basis that the finding recorded in disposing of an application under 0. IX. Rule 7 would, operate as res judicata when the same question of fact is raised in a subsequent application to set aside an exparte decree under Order IX, Rule 13. This is because it is not disputed that in order to operate as res judicata, the court dealing with the first matter must have had jurisdiction and competency to entertain and decide the issue. Adverting to the facts of the present appeal, this would primarily turn upon the proper construction of the terms of Order IX. Rule 7. The opening words of that rule are, as already seen, 'Where the Court has adjourned the hearing of the suit exparte. Now, what do these words mean? Obviously they assume that there is to be a hearing on the date to which the suit stands adjourned.*

> *If the entirety of the "hearing" of the suit has been completed and the Court being competent to pronounce the judgment then and there, adjourns the suit merely for the purpose of pronouncing judgment under Order XX. Rule 1, there is clearly no adjournment of "the hearing" of the suit, for there is nothing more to be heard in the suit. It was precisely this idea that was expressed by the learned Civil Judge when he stated that having regard to the stage which the suit had reached the only proceeding in which the appellant could participate was to hear the judgment pronounced and that on the terms of Rules 6 and 7 he would permit him to do that. If, therefore the hearing Was completed and the suit was not "adjourned for hearing", Order IX. Rule 7 could have no application and the matter would stand at the stage of Order IX. Rule 6 to be followed up by the passing of an exparte decree making Rule 13 the only provision in order IX applicable. If this were the correct position, it would automatically follow that the learned Civil Judge would have no jurisdiction to entertain the application dated May 31, 1958 purporting to be under Order IX. Rule 7, or pass any order thereon on the merits. This in its turn would lead to the result that the application under Order IX, Rule 13 was not only Competent but had to be heard on the merits without reference to the findings contained in the previous order."*

17) In ***Arjun Singh*** (supra), the Hon'ble Apex Court further held that on the terms of Order IX, Rule 7 CPC if the defendant appears on the adjourned date and satisfies

the Court by showing good cause for his non-appearance on the previous day or days he might have the earlier proceedings recalled – "set the clock back" and have the suit heard in his presence. On the other hand, he might fail in showing good cause. Even in such a case he is not penalized in the sense of being forbidden to take part in the further proceedings of the suit or whatever might still remain of the trial. Only he cannot claim to be relegated to the position that he occupied at the commencement of the trial.

18) In ***Rasiklal Manikchand Dhariwal v. M.S.S.Food Products***[2] the Hon'ble Apex Court referred to the judgment in the case of ***Arjun Singh*** (supra).

19) Paragraphs-53 and 54 of ***Rasiklal Manikchand Dhariwal*** (supra) are reproduced as under:

> *"**53.** The legal position with regard to Order 9 Rule 6 has been explained by a three-Judge Bench of this Court in Arjun Singh [AIR 1964 SC 993 : (1964) 5 SCR 946] , wherein this Court stated thus: (AIR p. 1004, para 19)*

[2] (2012) 2 SCC 196

"19. … Rule 6(1)(a) enables the court to proceed ex parte where the defendant is absent even after due service. Rule 6 contemplates two cases: (1) the day on which the defendant fails to appear is one of which the defendant has no intimation that the suit will be taken up for final hearing, for example, where the hearing is only the first hearing of the suit, and (2) where the stage of the first hearing is passed and the hearing which is fixed is for the disposal of the suit and the defendant is not present on such a day. The effect of proceeding ex parte in the two sets of cases would obviously mean a great difference in the result. So far as the first type of cases is concerned it has to be adjourned for final disposal and, as already seen, it would be open to the defendant to appear on that date and defend the suit. In the second type of cases, however, one of two things might happen. The evidence of the plaintiff might be taken then and there and judgment might be pronounced."

54. *The following observations made by this Court in Arjun Singh [AIR 1964 SC 993 : (1964) 5 SCR 946] with reference to Order 9 Rule 7, Order 9 Rule 13 and Order 20 Rule 1 are quite apposite and may be reproduced as it is: (AIR p. 1004, para 19)*

"19. … On the terms of Order 9 Rule 7 if the defendant appears on such adjourned date and satisfies the court by showing good cause for his non-appearance on the previous day or days he might have the earlier proceedings recalled—'set the clock back' and have the suit heard in his presence. On the other

hand, he might fail in showing good cause. Even in such a case he is not penalised in the sense of being forbidden to take part in the further proceedings of the suit or whatever might still remain of the trial, only he cannot claim to be relegated to the position that he occupied at the commencement of the trial. Thus every contingency which is likely to happen in the trial vis-à-vis the non-appearance of the defendant at the hearing of a suit has been provided for and Order 9 Rule 7 and Order 9 Rule 13 between them exhaust the whole gamut of situations that might arise during the course of the trial. If, thus, provision has been made for every contingency, it stands to reason that there is no scope for the invocation of the inherent powers of the court to make an order necessary for the ends of justice. Mr Pathak, however, strenuously contended that a case of the sort now on hand where a defendant appeared after the conclusion of the hearing but before the pronouncing of the judgment had not been provided for. We consider that the suggestion that there is such a stage is, on the scheme of the Code, wholly unrealistic. In the present context when once the hearing starts, the Code contemplates only two stages in the trial of the suit: (1) where the hearing is adjourned or (2) where the hearing is completed. Where the hearing is completed the parties have no further rights or privileges in the matter and it is only for the convenience of the court that Order 20 Rule 1 permits judgment to be delivered after an interval after the hearing is completed. It would, therefore, follow that after the stage contemplated by Order 9 Rule 7 is passed the next stage is only the passing of a decree which on the terms of Order 9 Rule 6 the court is

competent to pass. And then follows the remedy of the party to have that decree set aside by application under Order 9 Rule 13. There is thus no hiatus between the two stages of reservation of judgment and pronouncing the judgment so as to make it necessary for the court to afford to the party the remedy of getting orders passed on the lines of Order 9 Rule 7."

20) The learned trial Court has clearly observed in the Order that the Defendant Nos. 1 and 2 made their appearance. The 1st Defendant alone filed written statement, whereas, the 2nd Defendant failed to file written statement; thereby he was made exparte on 15.11.2010. The Suit was transferred to the present Court where it is now pending since 2104, on the point of pecuniary jurisdiction. After filing of the additional written statement by Defendant No. 1, the additional issues were also framed on 16.06.2016. The Suit is pending at the stage of the cross-examination of PW1. The 2nd Defendant had knowledge about the suit proceeding. It is not a case where the summons had not been served, at all on Defendant No.2.

21) The learned trial Court concluded that, the Defendant Nos. 1 and 2 are also close relatives. The Defendant No. 2 did not choose to file any application for 12 years. There was no satisfactory explanation for waiting all these twelve [12] years to file the application and except the bald allegations, there is no material to show that the elders intervened to settle the matter. The explanation as offered by the Defendant No. 2, was not found to be satisfactory and convincing.

22) The finding that there was no good cause is a finding of fact. This Court does not find any reason to interfere with such finding in the exercise of jurisdiction under Article 227 of the Constitution of India.

23) In ***Sadhana Lodh v. National Insurance Co.Ltd.***[3] the Hon'ble Apex Court held that 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

[3] (2003) 3 SCC 524

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 reweigh the evidence upon which the inferior Court or Tribunal purports to have passed the order or to correct errors of law in the decision.

24) In ***Raghunathe Jew v. State of Orissa***[4] the Hon'ble Apex Court held that it is well settled that in exercise of supervisory jurisdiction, the High Court would be entitled to interfere with the conclusion of an inferior tribunal, if such tribunal considers any inadmissible pieces of evidence in arriving at its conclusion or ignores material piece of evidence from the purview of consideration or the conclusion is based upon any error of law or the tribunal itself has no jurisdiction at all or that the conclusion is based on no evidence.

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[4] (1999) 1 SCC 488

25) In ***State v. Navjot Sandhu***[5] the Hon'ble Apex Court held that Article 227 of the Constitution of India gives the High Court the power of superintendence over all Courts and Tribunals throughout the territories in relation to which it exercises jurisdiction. The supervisory jurisdiction extends to keeping the subordinate tribunals within the limits of their authority and to seeing that they obey the law. The powers under Article 227 of the Constitution of India are wide and can be used, to meet the ends of justice. They can be used to interfere even with an interlocutory order. It was further held that, however, the power of judicial superintendence under Articile 227 of the Constitution must be exercised sparingly and only to keep subordinate Courts and Tribunals within the bounds of their authority and not to correct mere errors. This power could not be exercised in the "cloak of an appeal in disguise".

[5] (2003) 6 SCC 641

26) It is apt to refer paragraphs-17, 19, 21, 22, 26 and 28 in ***State v. Navjot Sandhu*** (supra) on the scope of Article 227 of the Constitution of India as under:

> *"**17.** In the case of State of Gujarat v. Vakhatsinghji Vajesinghji Vaghela [AIR 1968 SC 1481 : (1968) 3 SCR 692] it is held that Article 227 of the Constitution of India gives the High Court the power of superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction. It is held that this jurisdiction cannot be limited or fettered by any act of the State Legislature. It is held that the supervisory jurisdiction extends to keeping the subordinate tribunals within the limits of the authority and to seeing that they obey the law.*
>
> ***19.** In the case of Jagir Singh v. Ranbir Singh [(1979) 1 SCC 560 : 1979 SCC (Cri) 348] it is held as follows : (SCC p. 565, para 6)*
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> *"6. If the revision application to the High Court could not be maintained under the provisions of the Criminal Procedure Code, could the order of the High Court be sustained under Article 227 of the Constitution, as now suggested by the respondent? In the first place the High Court did not purport to exercise its power of superintendence under Article 227. The power under Article 227 is a discretionary power and it is difficult to attribute to the order of the High Court such a source of power when the High Court itself did not, in terms, purport to exercise any such discretionary power. In the second place the power of judicial superintendence*

under Article 227 could only be exercised sparingly, to keep subordinate courts and tribunals within the bounds of their authority and not to correct mere errors. Where the statute banned the exercise of revisional powers by the High Court, it would indeed require very exceptional circumstances to warrant interference under Article 227 of the Constitution since the power of superintendence was not meant to circumvent statutory law."

21. *In the case of Pepsi Foods Ltd. v. Special Judicial Magistrate [(1998) 5 SCC 749 : 1998 SCC (Cri) 1400] it has been held as follows : (SCC pp. 758-59, paras 21-25)*

"21. The questions which arise for consideration are if in the circumstances of the case, the appellants rightly approached the High Court under Articles 226 and 227 of the Constitution and if so, was the High Court justified in refusing to grant any relief to the appellants because of the view which it took of the law and the facts of the case. We have, thus, to examine the power of the High Court under Articles 226 and 227 of the Constitution and Section 482 of the Code.

22. It is settled that the High Court can exercise its power of judicial review in criminal matters. In State of Haryana v. Bhajan Lal [1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] this Court examined the extraordinary power under Article 226 of the Constitutionand also the inherent powers under Section 482 of the Code which it said could be exercised by the High Court either to prevent abuse of the process of any court or otherwise

to secure the ends of justice. While laying down certain guidelines where the court will exercise jurisdiction under these provisions, it was also stated that these guidelines could not be inflexible or laying rigid formulae to be followed by the courts. Exercise of such power would depend upon the facts and circumstances of each case but with the sole purpose to prevent abuse of the process of any court or otherwise to secure the ends of justice. One of such guidelines is where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused. Under Article 227 the power of superintendence by the High Court is not only of administrative nature but is also of judicial nature. This article confers vast powers on the High Court to prevent the abuse of the process of law by the inferior courts and to see that the stream of administration of justice remains clean and pure. The power conferred on the High Court under Articles 226 and 227 of the Constitution and under Section 482 of the Code have no limits but more the power more due care and caution is to be exercised while invoking these powers. When the exercise of powers could be under Article 227 or Section 482 of the Code it may not always be necessary to invoke the provisions of Article 226. Some of the decisions of this Court laying down principles for the exercise of powers by the High Court under Articles 226 and 227 may be referred to.

23. In Waryam Singh v. Amarnath [AIR 1954 SC 215] this Court considered the scope of Article 227. It

was held that the High Court has not only administrative superintendence over the subordinate courts and tribunals but it has also the power of judicial superintendence. The Court approved the decision of the Calcutta High Court in Dalmia Jain Airways Ltd. v. Sukumar Mukherjee [AIR 1951 Cal 193 (SB)] where the High Court said that the power of superintendence conferred by Article 227 was to be exercised most sparingly and only in appropriate cases in order to keep the subordinate courts within the bounds of their authority and not for correcting their mere errors. The Court said that it was, therefore, a case which called for an interference by the Court of the Judicial Commissioner and it acted quite properly in doing so.

24. In Bathutmal Raichand Oswal v. Laxmibai R. Tarta [(1975) 1 SCC 858] this Court again reaffirmed that the power of superintendence of the High Court under Article 227 being extraordinary was to be exercised most sparingly and only in appropriate cases. It said that the High Court could not, while exercising jurisdiction under Article 227, interfere with the findings of fact recorded by the subordinate court or tribunal and that its function was limited to seeing that the subordinate court or tribunal functioned within the limits of its authority and that it could not correct mere errors of fact by examining the evidence or reappreciating it. The Court further said that the jurisdiction under Article 227 could not be exercised, 'as the cloak of an appeal in disguise. It does not lie in order to bring up an order or decision for rehearing of the issues raised in

the proceedings'. The Court referred with approval the dictum of Morris, L.J. in R. v. Northumberland Compensation Appeal Tribunal, ex p Shaw [(1952) 1 All ER 122 : (1952) 1 KB 338 (CA)] .

25. In Nagendra Nath Bora v. Commr. of Hills Division and Appeals [AIR 1958 SC 398] this Court observed as under:

'It is thus, clear that the powers of judicial interference under Article 227 of the Constitution with orders of judicial or quasi-judicial nature, are not greater than the powers under Article 226 of the Constitution. Under Article 226, the power of interference may extend to quashing an impugned order on the ground of a mistake apparent on the face of the record. But under Article 227 of the Constitution, the power of interference is limited to seeing that the tribunal functions within the limits of its authority.' "

(emphasis supplied)

22. *In the case of Industrial Credit and Investment Corpn. of India Ltd. v. Grapco Industries Ltd. [(1999) 4 SCC 710] it has been held that there is no bar on the High Court examining merits of a case in exercise of its jurisdiction under Article 227 of the Constitution of India if the circumstances so require. It has been held that, under Article 227 of the Constitution of India, the High Court can even interfere with interim orders of courts and tribunals if the order is made without jurisdiction.*

26. *In the case of Ouseph Mathai v. M. Abdul Khadir [(2002) 1 SCC 319] it has been held as follows : (SCC pp. 324-25, paras 5-7)*

"5. In Waryam Singh v. Amarnath [AIR 1954 SC 215] this Court held that power of superintendence conferred by Article 227 is to be exercised more sparingly and only in appropriate cases in order to keep the subordinate courts within the bounds of their authority and not for correcting mere errors. This position of law was reiterated in Nagendra Nath Bora v. Commr. of Hills Division and Appeals [AIR 1958 SC 398] . In Bathutmal Raichand Oswal v. Laxmibai R. Tarta [(1975) 1 SCC 858] this Court held that the High Court could not, in the guise of exercising its jurisdiction under Article 227 convert itself into a court of appeal when the legislature has not conferred a right of appeal. After referring to the judgment of Lord Denning in R. v. Northumberland Compensation Appeal Tribunal, ex p Shaw [(1952) 1 All ER 122 : (1952) 1 KB 338 (CA)] (All ER at p. 128) this Court in Chandavarkar Sita Ratna Rao v. Ashalata S. Guram [(1986) 4 SCC 447] held : (SCC p. 460, para 20)

'20. It is true that in exercise of jurisdiction under Article 227 of the Constitution the High Court could go into the question of facts or look into the evidence if justice so requires it, if there is any misdirection in law or a view of fact taken in the teeth of preponderance of evidence. But the High Court should decline to exercise its jurisdiction under Articles 226 and 227 of the Constitution to look into the fact in the absence of clear

and cut-down reasons where the question depends upon the appreciation of evidence. The High Court also should not interfere with a finding within the jurisdiction of the inferior tribunal except where the findings are perverse and not based on any material evidence or it resulted in manifest injustice (see Trimbak Gangadhar Telang v. Ramchandra Ganesh Bhide [(1977) 2 SCC 437]). Except to the limited extent indicated above, the High Court has no jurisdiction. In our opinion therefore, in the facts and circumstances of this case on the question that the High Court has sought to interfere, it is manifest that the High Court has gone into questions which depended upon appreciation of evidence and indeed the very fact that the learned trial Judge came to one conclusion and the Appellate Bench came to another conclusion is indication of the position that two views were possible in this case. In preferring one view to another of factual appreciation of evidence, the High Court transgressed its limits of jurisdiction under Article 227 of the Constitution. On the first point, therefore, the High Court was in error.'

6. In Laxmikant Revchand Bhojwani v. Pratapsing Mohansingh Pardeshi [(1995) 6 SCC 576] this Court held that the High Court was not justified in extending its jurisdiction under Article 227 of the Constitution of India in a dispute regarding eviction of tenant under the Rent Control Act, a special legislation governing landlord-tenant relationship. To the same effect is the judgment in Koyilerian Janaki v. Rent Controller (Munsiff) [(2000) 9 SCC 406] .

7. In the present appeals, the High Court appears to have assumed the jurisdiction under Article 227 of the Constitution without referring to the facts of the case warranting the exercise of such a jurisdiction. Extraordinary powers appear to have been exercised in a routine manner as if the power under Article 227 of the Constitution was the extension of powers conferred upon a litigant under a specified statute. Such an approach and interpretation is unwarranted. By adopting such an approach some High Courts have assumed jurisdiction even in matters to which the legislature had assigned finality under the specified statutes. Liberal assumption of powers without reference to the facts of the case and the corresponding hardship to be suffered by a litigant has unnecessarily burdened the courts resulting in accumulation of arrears adversely affecting the attention of the court to the deserving cases pending before it."

(emphasis supplied)

28. *Thus the law is that Article 227 of the Constitution of India gives the High Court the power of superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction. This jurisdiction cannot be limited or fettered by any Act of the State Legislature. The supervisory jurisdiction extends to keeping the subordinate tribunals within the limits of their authority and to seeing that they obey the law. The powers under Article 227 are wide and can be used, to meet the ends of justice. They can be used to interfere even with an*

> *interlocutory order. However the power under Article 227 is a discretionary power and it is difficult to attribute to an order of the High Court, such a source of power, when the High Court itself does not in terms purport to exercise any such discretionary power. It is settled law that this power of judicial superintendence, under Article 227, must be exercised sparingly and only to keep subordinate courts and tribunals within the bounds of their authority and not to correct mere errors. Further, where the statute bans the exercise of revisional powers it would require very exceptional circumstances to warrant interference under Article 227 of the Constitution of India since the power of superintendence was not meant to circumvent statutory law. It is settled law that the jurisdiction under Article 227 could not be exercised "as the cloak of an appeal in disguise".*

27) In ***Garment Craft v. Prakash Chand Goel***[6] the Hon'ble Apex Court held that High Court exercising supervisory jurisdiction under Article 227 of the Constitution does not act as a Court of first appeal to re-appreciate, reweigh evidence or facts upon which determination under challenge is based.

28) It is apt to refer to paragraph-16 in ***Garment Craft*** (supra) as under:

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[6] (2022) 4 SCC 181

16. *Explaining the scope of jurisdiction under Article 227, this Court in Estralla Rubber v. Dass Estate (P) Ltd. [Estralla Rubber v. Dass Estate (P) Ltd., (2001) 8 SCC 97] has observed : (SCC pp. 101-102, para 6)*

"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."

29) There is no illegality or an error of such a nature so as to exercise supervisory jurisdiction, which could not be shown in the impugned Order.

30) Learned Counsel for the Petitioner submits that, the Petitioner would be deprived of an opportunity to participate in the Suit proceedings if the order impugned is not set aside.

31) The aforesaid submission is unsustainable in view of the law laid down in **Arjun Singh** (supra).

32) It is open to the Petitioner to take part in the suit proceedings from the stage, he so approaches, subject to the pendency of the Suit.

33) The revision petition is accordingly ***dismissed***.

No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending, shall also stand closed.

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RAVI NATH TILHARI, J

Date: 08.05.2023.
Note:
L.R. copy to be marked.
B/o.
SM/NKA.

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI

CIVIL REVISION PETITION NO. 1262 OF 2023

Date: 08.05.2023

SM/NKA