K.V. RAMI REDDI

v.

PREMA

(Civil Appeal No. 2551 of 2001)

FEBRUARY 20, 2008

[DR. ARIJIT PASAYAT AND P. SATHASIVAM, JJ.]

Code of Civil Procedure, 1908 – Order XX r. 1 and 3 and s. 2(9) – Validity of judgment delivered – Trial judge not completing judgment before he delivered his decision and decreeing the suit claim – Set aside by High Court holding it to be no judgment in eye of law – Held: Warrants no interference – Declaration by a Judge of his intention of what his 'judgment' is going to be or what final result is going to embody, is not a judgment until he had crystallized his intentions into a formal shape and pronounced it in open court as the final expression of his mind – Judgment/Order

Words and phrases – 'Judgment' – Meaning of – In the context of Code of Civil Procedure, 1908.

The respondent filed suit for specific performance. According to the respondent, on 24.3.1999, the Civil Judge without dictating the judgment to the Stenographer, transcribing and signing the same, simply made an endorsement in the plaint docket sheet to the effect that the respondent was not entitled to the relief claimed and the operative portion was dictated on 25.03.1999 during lunch time. Respondent filed Revision petition highlighting the irregularities committed by the Civil Judge while pronouncing the judgment. The appellant contended that the entire judgment had been dictated by the Judge and the transcribed part covered the vital issues 1 to 3 and the Stenographer was half way through the fourth issue and the additional issue; and that a reasonable inference could be drawn that all the issues

had been dictated to the stenographer and the date on which the judgment was pronounced-i.e. 24.03.1999, the judgment must be deemed to have been completed. The Single Judge of High Court held that since the Civil Judge had not completed the judgment before he delivered his decision, it was no judgment in the eye of law. The judgment dated 24.03.1999 was set aside and the matter was remitted to the Civil Judge to hear the arguments afresh and render a decision. Hence the present appeal.

Dismissing the appeal, the Court

HELD: 1.1 With regard to the question whether the judgment has been validly delivered, if it is a mere procedural irregularity and the judge concerned had not signed the judgment, then the judgment thus rendered cannot be in-validated. Order XX Rule 1 CPC postulates that after the case has been heard, the court hearing the same shall pronounce the judgment in open court by dictation to the shorthand writer, wherever it is permissible. It bears the date on which it is pronounced. The date of the judgment is never altered by the date on which the signature has been put subsequently. The mere fact that a major portion has been dictated by the learned Judge in the judgment already dictated, will not, by itself, lead to the conclusion that the judgment had been delivered. [Para 9] [87-G; 88-A, B]

1.2 The declaration by a Judge of his intention of what his 'judgment' is going to be, or a declaration of his intention of what final result it is going to embody, is not a judgment until he had crystallized his intentions into a formal shape and pronounced it in open court as the final expression of his mind. [Para 11] [89-C, D]

1.3 Section 2(9) of CPC defines a 'judgment' to mean the statement given by the judge of the grounds for a decree or order. CPC does not envisage the writing of a judgment after deciding the case by an oral judgment and

it must not be resorted to and it would be against public policy to ascertain by evidence alone what the `judgment' of the Court was, where the final result was announced orally but the `judgment', as defined in CPC embodying a concise statement of the case, points for determination, the decision thereon and the reasons for such decision, was finalized later on. [Paras 12 and 13] [89-D, E, F]

1.4 Undisputedly, the trial judge had not completed the judgment before he delivered his decision. That being so, the impugned judgment does not suffer from any infirmity to warrant interference. It is directed that the trial court would be hear the arguments afresh. [Para 15] [90-C, D]

Smt. Swaran Lata Ghosh vs. Harendra Kumar Banerjee and Anr. **AIR 1969 SC 1167**; *Balraj Taneja and Anr. vs. Sunil Madan and Anr.* **1999 (8) SCC 396 – referred to.**

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2551 of 2001

From the final Judgment and Order dated 29/2/2000 of the High Court of Judicature at Madras in C.R.P. No. 1909/1999.

V. Balachandran for the Appellant.

V. Ramasubramanian for the Respondent.

The following Judgment of the Court was delivered by

Dr. ARIJIT PASAYAT, J. 1. Heard learned counsel for the parties.

2. Challenge in this appeal is to the judgment of a learned single Judge of the Madras High Court allowing the Civil Revision petition filed highlighting the irregularities committed by the learned Seventh Assistant City Civil Judge, Chennai while pronouncing the judgment in O.S. No. 584 of 1996. The controversy in the suit need not be detailed, as the points in issue in the present appeal lie within a very narrow compass.

A 3. The Suit was filed by the present respondent for specific performance to enforce a sale agreement dated 20.10.1988. The suit is stated to have been decided on 24.03.1999. According to the present respondent, who was the petitioner in the Civil Revision petition, even without dictating the judgment B to the Stenographer, transcribing and signing the same, simply an endorsement in the plaint docket sheet was made to the effect that the plaintiff in the suit was not entitled to the relief of specific performance to enforce a sale agreement but was entitled to refund of Rs.2,00,000/-. Stand in the revision petition C was that there was no judgment in the eye of law. It was pointed out that only the operative portion was dictated on 25.03.1999 during lunch time and, therefore, the decision rendered on 24.03.1999 was non est in the eye of law and a nullity. Learned counsel appearing for the respondent in the Civil Revision D petition i.e. the present appellant took the stand that four issues and an additional issue had been framed. The entire judgment had been dictated by learned Single Judge and the transcribed part covered the vital issues 1 to 3 and the Stenographer was half way through the fourth issue and the additional issue. Therefore, it was submitted that a reasonable inference should E be drawn that all the issues had been dictated to the stenographer and on the date the judgment was pronounced, i.e. 24.03.1999, the judgment must be deemed to have been completed. Learned Single Judge did not find substance in the stand taken by the present appellant. It was held that since the F learned Trial Judge had not completed the judgment before he delivered his decision, it has to be held that there was no judgment in the eye of law. Accordingly, the Civil Revision petition was allowed and judgment dated 24.03.1999 was set aside and the matter was remitted to the present Seventh Assistant G City Civil Judge, Chennai who was to hear the arguments afresh and render a decision.

4. Learned counsel for the appellant submitted that the course adopted by learned City Civil Judge is permissible in law in the background of Order XX, Rule-5 of the Code of Civil H

Procedure, 1908 (in short 'the CPC'). A

5. Learned counsel for the respondent, on the other hand, submitted that the Trial Judge has not decided the matter in the background of Order XX, Rule 5, CPC. On the contrary, the provisions of Order XX, Rules-1 and 3 apply to the facts of the case. B

6. Order XX, Rule-1 (1) of the CPC (Madras Amendment) reads as follows:

"(1) The Court, after the case has been heard, shall pronounce judgment in open Court, either at once or on some future day, of which due notice shall be given to the parties or their pleaders. C

(2) The judgment may be pronounced by dictation to a shorthand-writer in open court, where the presiding Judge has been specially empowered in that behalf by the High Court." D

Similarly, Order XX, Rule 3 reads as follows:

"The judgment shall be dated and signed by the Judge in open Court at the time of pronouncing it and when once signed, shall not afterwards be altered or added to save as provided by Section 152 or on review." E

7. Order XX, Rule 5 on which great emphasis was laid by learned counsel for the appellant says that in Suits in which issues have been framed, the Court shall state its finding or decision with the reason therefor, upon each separate issue, unless the finding upon any one or more of the issues is sufficient for the decision of the Suit. F

8. As rightly submitted by learned counsel for the respondent, this was not the view expressed by the learned Trial Judge. G

9. The ultimate question is whether in the instant case the judgment has been validly delivered? If it is a mere procedural H

A irregularity and the Judge concerned had not signed the judgment, then the judgment thus rendered cannot be invalidated. Order XX Ruie 1 CPC postulates that after the case has been heard, the court hearing the same shall pronounce the judgment in open court by dictation to the shorthand writer, B wherever it is permissible. It bears the date on which it is pronounced. The date of the judgment is never altered by the date on which the signature has been put subsequently. The mere fact that a major portion has been dictated by the learned Judge in the judgment already dictated, will not, by itself, lead to C the conclusion that the judgment had been delivered.

10. In *Smt. Swaran Lata Ghosh Vs. Harendra Kumar Banerjee and Anr.* (AIR 1969 SC 1167), it was inter-alia held as follows (at Para 6):

D "Trial of a civil dispute in Court is intended to achieve, according to law and the procedure of the Court, a judicial determination between the contesting parties of the matter in controversy. Opportunity to the parties interested in the dispute to present their respective cases on question of law as well as fact, ascertainment of facts by means of E evidence tendered by the parties and adjudication by a reasoned judgment of the dispute upon a finding on the facts in controversy and application of the law to the facts found, are essential attributes of a judicial trial. In a judicial trial, the judge not only must reach a conclusion which he F regards as just, but, unless otherwise permitted, by the practice of the Court or by law, he must record the ultimate mental process leading from the dispute to its solution. A judicial determination of a disputed claim where substantial questions of law or fact arise is satisfactorily reached, G only if it be supported by the most cogent reasons that suggest themselves to the Judge; a mere order deciding the matter in dispute not supported by reasons is no judgment at all. Recording of reasons in support of a decision of a disputed claim serves more purposes than H one. It is intended to ensure that the decision is not the

result of whim or fancy, but of a judicial approach to the matter in contest; it is also intended to ensure adjudication of the matter according to law and the procedure established by law. A party to the dispute is ordinarily entitled to know the grounds on which the Court has decided against him, and more so, when the judgment is subject to appeal. The Appellate Court will then have adequate material on which it may determine whether the facts are properly ascertained, the law has been correctly applied and the resultant decision is just. It is unfortunate that the learned Trial Judge has recorded no reasons in support of his conclusion, and the High Court in appeal merely recorded that they thought that the plaintiff had sufficiently proved the case in the plant."

11. The declaration by a Judge of his intention of what his 'judgment' is going to be, or a declaration of his intention of what final result it is going to embody, is not a judgment until he had crystallized his intentions into a formal shape and pronounced it in open court as the final expression of his mind.

12. The CPC does not envisage the writing of a judgment after deciding the case by an oral judgment and it must not be resorted to and it would be against public policy to ascertain by evidence alone what the 'judgment' of the Court was, where the final result was announced orally but the 'judgment', as defined in the CPC embodying a concise statement of the case, the points for determination, the decision thereon and the reasons for such decision, was finalized later on.

13. Section 2(9) of the CPC defines a "judgment" to mean the statement given by the Judge of the grounds for a decree or order.

14. In *Balraj Taneja and Anr. Vs. Sunil Madan and Anr.* (1999 (8) SCC 396), it was inter-alia held as follows:

"There is yet another infirmity in the case which relates to the "judgment" passed by the single Judge and upheld by

A the Division Bench.

"Judgment" as defined in Section 2(9) of the Code of Civil Procedure means the statement given by the Judge of the grounds for a decree or order. What a judgment should contain is indicated in Order 20 Rule 4(2) which says that
B a judgment "shall contain a concise statement of the case, the points for determination, the decision thereon, and the reasons for such decision". It should be a self-contained document from which it should appear as to what were the facts of the case and what was the controversy which was
C tried to be settled by the Court and in what manner. The process of reasoning by which the Court came to the ultimate conclusion and decreed the suit should be reflected clearly in the judgment."

D 15. Undisputedly, the Trial Judge had not completed the judgment before he delivered his decision. That being so, the impugned judgment does not suffer from any infirmity to warrant interference. What the High Court has directed is to hear only the arguments afresh. While dismissing the appeal, we direct that the arguments shall be heard afresh and the Trial Court
E shall deliver its judgment as early as practicable, preferably within three months from today. To avoid unnecessary delay, let the parties appear before the Trial Court on 05.03.2008 so that the date for arguments can be fixed.

F N.J. Appeal dismissed.