GOVERNMENT OF KARNATAKA AND ORS. A

v.

SMT. GOWRAMMA AND ORS.

DECEMBER 14, 2007

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

Karnataka Preservation of Trees Act, 1976: Application by owner of land for permission to cut trees—Conditional permission granted—While granting transport permits, Government transported some portion of timbers to their godowns—Claim of owner for price of timber transported—Held: Not sustainable in the absence of challenge to the conditions stipulated in permission granted. C

Precedent: Reliance on a decision without looking into the factual background of the case before the Court—Held: Not proper—Decision is precedent on its own facts—Observations of Courts are neither to be read as Euclid's theorems nor as provisions of the statute—These observations to be read in the context in which they are stated—Judges interpret words of statutes—Their words not to be interpreted as statutes— Judgment—Interpretation of. D E

The plaintiffs are owners of the suit land. They had grown silver wood and other varieties of trees on the suit land. The plaintiff applied for permission for cutting and felling of silver wood and other trees on the suit land. The defendants granted the permission. In terms of the permission, the plaintiffs cut and felled the trees. While issuing the transport permit to the plaintiffs, the defendant directed issuance of transport permit and ordered to transfer certain timber to Government depot. A suit for recovery was filed by the plaintiffs claiming that they were entitled to the value of the timber transported to Government godown at the prevailing rates. The defendants took the stand that the permission was conditional and there was never any challenge to the conditional permission granted and after having accepted the permission by plaintiff with the conditions stipulated, F G

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A it was not open to the plaintiffs to lay a claim for the value of the trees. The Trial Court dismissed the suit holding that in the absence of challenge to the conditional permission, there was no question of the plaintiffs making a claim for value of the timber transported. The High Court allowed the appeal filed by plaintiffs by placing reliance B on certain judgment of High Court wherein it was held that in respect of reserved trees, the ownership was not with the Government but was with the owner of the land. Hence the present appeal.

Allowing the appeal, the Court

C HELD: 1. It is an admitted position that the permission was granted with conditions. It is also not disputed that PW-l, who was examined in support of the plaintiff's case, accepted that the trees in question were reserved trees. The Trial Court took note of this fact and noted that in the cross-examination of PW-1, he has D specifically admitted that the Nandi trees are reserved trees. Further, the High Court lightly brushed aside the stand of the State and its functionaries that in the absence of any challenge to the conditions stipulated in the permission granted, it was not open to the plaintiffs to claim value of the Timber. The High Court, in the E impugned judgment, referred to some judgments rendered in writ petitions. [Para 8] [944-B-D]

2.1. Reliance on the decision without looking into the factual background of the case before it is clearly impermissible. A decision is a precedent on its own facts. Each case presents its own features. F It is not everything said by a Judge while giving a judgment that constitutes a precedent. The only thing in a Judge's decision binding a party is the principle upon which the case is decided and for this reason it is important to analyse a decision and isolate from it the *ratio decidendi.* According to the well-settled theory of precedents, G every decision contains three basic postulates : (i) findings of material facts, direct and inferential. An inferential finding of facts is the inference which the Judge draws from the direct, or perceptible facts; (ii) statements of the principles of law applicable to the legal problems disclosed by the facts; and (iii) judgment based on the H combined effect of the above. A decision is an authority for what it

actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically flows from the various observations made in the judgment. The enunciation of the reason or principle on which a question before a Court has been decided is alone binding as a precedent. A case is a precedent and binding for what it explicitly decides and no more. The words used by Judges in their judgments are not to be read as if they are words in Act of Parliament. [Para 9] [944-E-H; 945-A]

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State of Orissa **v.** *Sudhansu Sekhar Misra and Ors.,* **AIR (1968) SC 647 and** *Union of India and Ors.* **v.** *Dhanwanti Devi and Ors.,* **[1996] 6 SCC 44, relied on.**

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Quinn **v.** *Leathem,* **(1901) AC 495 (H.L.), referred to.**

2.2. Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of Courts are neither to be read as *Euclid's* **theorems nor as provisions of the statute and that too taken out of their context. These observations must be read in the context in which they appear to have been stated. To interpret words, phrases and provisions of a statute, it may become necessary for judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes; their words are not to be interpreted as statutes. [Para 10] [945-C-E]**

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London Graving Dock Co. Ltd. **v.** *Horton,* **(1951) AC 737 at p.761;** *Home Office* **v.** *Dorset Yacht Co.,* **(1970) 2 All ER 294 and** *Herrington* **v.** *British Railways Board,* **(1972) 2 WLR 537, referred to.**

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2.3. Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases. Disposal of cases by blindly placing reliance on a decision is not proper. [Para 12] [946-B]

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3. There was no challenge to the conditions stipulated and it was accepted that the trees were reserved trees. What is the effect

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A **of this admission, was not examined by the High Court. Therefore, looked at from any angle, the judgment of the High Court is clearly unsustainable and is set aside. [Para 14] [946-F-G]**

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2874 of 2001.

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From the final Judgment and Order dated 13.4.2000 of the High Court of Karnataka at Bangalore in Regular First Appeal No. 816 of 1995.

Sanjay R. Hegde and Amit Kr. Chawla for the Appellants.

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S.N. Bhat, N.P.S. Panwar and D.P. Chaturvedi for the Respondents.

The Judgment of the Court was delivered by

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

2. Challenge in this appeal is to the judgment of a learned Single Judge of the Karnataka High Court allowing the appeal filed by the respondents.

E 3. Plaintiffs, who are the respondents in the present appeal filed a Suit for recovery of a sum of Rs.1,47,965.20 on the ground that being owners of the Trees which were transported to the Government godown on the basis of the permission granted by the present appellants, the value of the Trees has to be paid by the government.

F 4. The case of the plaintiff, as culled out from the averments in the plaint is that they are the owners of the suit schedule property. The plaintiffs and their predecessor had grown silver wood, jungle wood and other varieties of trees in the schedule land by spending lot of money and had cultivated the said land with coffee crop. In order to regulate the shade G in the schedule property and also for cutting and felling of silver wood, jungle wood and other trees, the plaintiffs had applied for permission for cutting and felling of the silver wood, jungle wood and other trees. Before granting the felling permission of the said trees, a joint survey was carried out by the forest authorities as well as the revenue surveyors. Thereafter,

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the second defendant granted permission for felling of the trees situated in the schedule properties. In terms of the permission, the plaintiffs cut and felled the trees. While issuing the transport permit to the plaintiffs, the second defendant had directed issuance of transport permit for a portion of the trees and ordered to transfer 1050 CFT of timber valued at Rs.1,31,250/- to an earmarked forest depot. The firewood of 22-1/2 meters valued at Rs.10,000/- was also transported to the same depot. Therefore, the claim was made that the plaintiffs are entitled to the value of the Timber @ Rs.125/- per CFT and At Rs.150/- per CFT at the prevailing rates. Defendants took the stand that the permission was conditional and there was never any challenge to the conditional permission granted. After having accepted the permission with the conditions stipulated, it was not open to the plaintiffs to lay a claim for the value of the trees. The Trial Judge dismissed the Suit, *inter alia*, holding that in the absence of a challenge to the conditional permission, there was no question of the plaintiff's making a claim for value of the timber transported.

5. An appeal was filed before the High Court, which, by the impugned judgment, accepted the stand of the plaintiffs. For granting relief to the plaintiffs, i.e. the present respondents, reliance was placed on certain judgments of the High Court where it was held that in respect of reserved trees, the ownership was not with the Government but was with the owner of the land. Accordingly, as noted above, the appeal was allowed.

6. In support of the appeal, learned counsel for the appellant-State submitted that the grant of permission was governed by the Karnataka Preservation of Trees Act, 1976 (in short 'the Act'). Permission is required for felling of all trees irrespective of whether they are situated in private or in government land. The permission undisputedly is subject to the stipulated conditions. There is a provision for preferring an appeal in case of refusal to grant permission. The permission was granted on 30.3.1999 and there was a specific condition which stipulated that 27 trees of a particular variety which are reserved trees are to be transported to the Government Nata Warehouse after felling. There was no challenge to the order in this regard. Since the conditions were not challenged, the High Court should not have granted relief to the respondents-plaintiffs relying on certain decisions which were rendered in different context and had no

A application to the facts of the present case.

7. Learned counsel for the respondents, on the other hand, submitted that merely because the trees which were permitted to be cut were reserved trees, that did not mean that government was the owner of the trees. Reference is made to certain provisions of the Karnataka Forest B Act, 1963 to contend that the ownership of the Government in respect of the trees is restricted only to sandalwood trees.

8. It is an admitted position that the permission was granted with conditions. It is also not disputed that PW-l, who was examined in support C of the plaintiffs's case, accepted that the trees in question were reserved trees. The Trial Court took note of this fact and noted that in the cross-examination of PW-1, he has specifically admitted that the Nandi trees are reserved trees. Further, the High Court lightly brushed aside the stand of the State and its functionaries that in the absence of any challenge to D the conditions stipulated in the permission granted, it was not open to the plaintiffs to claim value of the Timber. The High Court, in the impugned judgment, referred to some judgments rendered in writ petitions.

9. Reliance on the decision without looking into the factual background of the case before it is clearly impermissible. A decision is a E precedent on its own facts. Each case presents its own features. It is not everything said by a Judge while giving a judgment that constitutes a precedent. The only thing in a Judge's decision binding a party is the principle upon which the case is decided and for this reason it is important to analyse a decision and isolate from it the *ratio decidendi*. According F to the well-settled theory of precedents, every decision contains three basic postulates – (i) findings of material facts, direct and inferential. An inferential finding of facts is the inference which the Judge draws from the direct, or perceptible facts; (ii) statements of the principles of law applicable to the legal problems disclosed by the facts; and (iii) judgment G based on the combined effect of the above. A decision is an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically flows from the various observations made in the judgment. The enunciation of the reason or principle on which a question before a Court has been decided is alone H binding as a precedent. (See: *State of Orissa* v. *Sudhansu Sekhar Misra*

and Ors., AIR (1968) SC 647 and *Union of India and Ors.* v. *Dhanwanti Devi and Ors.*, [1996] 6 SCC 44). A case is a precedent and binding for what it explicitly decides and no more. The words used by Judges in their judgments are not to be read as if they are words in Act of Parliament. In *Quinn* v. *Leathem,* (1901) AC 495 (H.L.), Earl of Halsbury LC observed that every judgment must be read as applicable to the particular facts proved or assumed to be proved, since the generality of the expressions which are found there are not intended to be exposition of the whole law but governed and qualified by the particular facts of the case in which such expressions are found and a case is only an authority for what it actually decides.

10. Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of Courts are neither to be read as Euclid's theorems nor as provisions of the statute and that too taken out of their context. These observations must be read in the context in which they appear to have been stated. Judgments of Courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes; their words are not to be interpreted as statutes. In *London Graving Dock Co. Ltd.* v. *Horton,* (1951) AC 737 at p.761, Lord Mac Dermot observed:

> "The matter cannot, of course, be settled merely by treating the ipsissima vertra of Willes, J as though they were part of an Act of Parliament and applying the rules of interpretation appropriate thereto. This is not to detract from the great weight to be given to the language actually used by that most distinguished judge."

11. In *Home Office* v. *Dorset Yacht Co.,* (1970) 2 All ER 294 Lord Reid said, "Lord Atkin's speech.....is not to be treated as if it was a statute definition. It will require qualification in new circumstances." Megarry, J in (1971) 1 WLR 1062 observed: "One must not, of course, construe even a reserved judgment of Russell L.J. as if it were an Act of

A Parliament." And, in *Herrington* v. *British Railways Board,* (1972) 2 WLR 537 Lord Morris said:

> "There is always peril in treating the words of a speech or judgment as though they are words in a legislative enactment, and it is to be remembered that judicial utterances made in the setting
B of the facts of a particular case."

12. Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases. Disposal of cases by blindly placing reliance on a decision is not proper.

C 13. The following words of Lord Denning in the matter of applying precedents have become locus classicus:

> "Each case depends on its own facts and a close similarity between one case and another is not enough because even a single
D significant detail may alter the entire aspect, in deciding such cases, one should avoid the temptation to decide cases (as said by Cordozo) by matching the colour of one case against the colour of another. To decide therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive."

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> "Precedent should be followed only so far as it marks the path of justice, but you must cut the dead wood and trim off the side branches else you will find yourself lost in thickets and branches.
F My plea is to keep the path to justice clear of obstructions which could impede it."

14. As noted above, there was no challenge to the conditions stipulated and it was accepted that the trees were reserved trees. What is the effect of this admission, was not examined by the High Court.
G Therefore, looked at from any angle, the judgment of the High Court is clearly unsustainable and is set aside. The appeal is allowed but without any order as to costs.

D.G. Appeal allowed.

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