

ABBAI MALIGAI PARTNERSHIP FIRM AND ANR.

v.

K. SANTHAKUMARAN AND ORS.

SEPTEMBER 9, 1998

[DR. A.S. ANAND, V.N. KHARE AND D.P. WADHWA, JJ.]

*Review—Special Leave petitions challenging order of High Court, dismissed by Supreme Court—Thereafter review petition filed in High Court challenging the same order which was challenged in SLPs—High Court allowing review petition—Held, High Court, being aware that SLPs against its orders had already been dismissed, had no power or jurisdiction to review the self same order which was the subject matter of challenge in the SLPs—By passing the impugned order, judicial propriety has been sacrificed—The respondents who approached the High Court after the dismissal of the SLPs abused the process of the Court and indulged in vexatious litigation—The manner in which review petition filed and heard in High Court, deprecated—Judicial propriety—Rent and Eviction.*

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 4996-4999 of 1994.

From the Judgment and Order dated 7.4.94 of the Madras High Court in C.M.P. Nos. 16541 & 16542/89 and R.C.M.P. No. 44-45/94 in C.R.P. No. 4974-75 of 1983.

S. Sivasubramaniam and V. Balachandran for the Appellants.

V.R. Reddy, T. Raja, Jayaprakash Narain and Sunil Murarka for the Respondents.

The following Order of the Court was delivered :

These appeals are directed against the order made by High Court of Madras dated 7.4.1994 in Review C.M.P. Nos. 44 and 45 of 1994 in Civil Revision Petition Nos. 4974 and 4975 of 1983.

The Rent Controller ordered eviction of the appellants in an eviction petition filed by respondents 1 and 2 on the ground of wilful default in payment of rent and *bonafide* requirement of the premises by respondents

- A 1 and 2 for their own business. On appeal filed by the appellant - tenants, it was found that there was a *bonafide* dispute with regard to the title of the property which could be decided by the Civil Court. The appellate authority set aside the order of the Rent Controller on 27.8.1983. Respondent 1 and 2 thereupon preferred revision petitions in the High Court and by its order dated 7.1.1987, the High Court rejected both the revision
- B petitions, confirming the view of the appellate authority. Aggrieved by the orders of the High Court dated 7.1.1987, respondents 1 and 2 filed S.L.P.(C) Nos. 4039-4040 of 1987. The appellants appeared on caveat in the Supreme Court. Both sides were represented by senior Advocates of this court. After hearing learned counsel for the parties, the special leave
- C petitions were dismissed on 16.9.1987. After the dismissal of the special leave petitions by this court, the respondents filed review petitions No. CMP 44 and 45 of 1994 in the High Court seeking review of the order, dismissing civil revision petitions No. 4974 and 4975 of 1983 on 7.1.1987. It was the order dated 7.1.1987 (*supra*) which was the subject matter of
- D challenge in SLP(C) Nos. 4039-4040/87. There was also a delay of 221 days in filing the review petitions in the High Court after the dismissal of the special leave petitions. The learned Single Judge, by the order impugned before us, not only condoned the delay of 221 days but also reviewed the earlier orders made on 7.1.1987, reversed the orders made in civil revision petitions and allowed civil revision petitions and ordered eviction of the
- E tenant - appellants. Aggrieved, the appellants are before us against the order dated 7.4.1994 made in the review petitions.

We have heard learned counsel for the parties.

- F The manner in which the learned Single Judge of the High Court exercised the review jurisdiction, after the special leave petitions against the self-same order had been dismissed by this court after hearing learned counsel for the parties, to say the least, was not proper. Interference by the learned single Judge at that stage is subversive of judicial discipline. The High Court was aware that SLPs against the orders dated 7.1.87 had
- G already been dismissed by this court. This High Court, therefore, had no power or jurisdiction to review the self same order, which was the subject matter of challenge in the SLPs in this court after the challenge had failed. By passing the impugned order on 7.4.1994, judicial propriety has been sacrificed. After the dismissal of the special leave petitions by this court,
- H on contest, no review petitions could be entertained by the High Court

against the same order. The very entertainment of the review petitions, in the facts and circumstances of the case was an affront to the order of this Court. We express our strong disapproval and hope there would be no occasion in the future when we may have to say so. The jurisdiction exercised by the High Court, under the circumstances, was palpably erroneous. The respondents who approached the High Court after the dismissal of their SLPs by the this court, abused the process of the court and indulged in vexatious litigation. We strongly deprecate the manner in which the review petitions were filed and heard in the High Court after the dismissal of the SLPs by this court. The appeals deserve to succeed on that short ground. The appeals are, consequently, allowed and the impugned order dated 7.4.1994 passed in the review petitions is hereby set aside. The respondents shall pay Rs. 10,000 as costs.

R.P.

Appeals allowed.