

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).1637/2005

(From the judgement and order dated 16/09/2004 in CRP No. 101/2004 of The
HIGH COURT OF KARNATAKA AT BANGALORE)

SAROJAMMA

Petitioner(s)

VERSUS

K.M. VENKATESH

Respondent(s)

(With prayer for interim relief and office report)

Date: 04/08/2006 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN

HON'BLE MR. JUSTICE MARKANDEY KATJU

For Petitioner(s)

Mr. B.Vishwanath Bhandarkar, Adv.

Mr. B.S. Sharma, Adv.for

Mr. V.N. Raghupathy,Adv.

For Respondent(s)

Mr. S.K. Kulkarni, Adv.

Mr. Vijay Kumar,Adv.

UPON hearing counsel the Court made the following

O R D E R

Leave granted.

Appeal stands allowed in terms of the signed order. No costs.

Singh)
aster

(J.S. Rawat)

(Kanwal

AR-cum-PS

Court M

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3376 OF 2006
(Arising out of SLP(C) No. 1637 of 2005)

Sarojamma

Appellant(s)

Versus

K.M. Venkatesh

Respondent(s)

O R D E R

Leave granted.

This appeal is directed against the dismissal of the revision petition by the High Court thereby confirming the decree for possession passed by the Small Causes Court.

Appellant and respondent are the tenant and landlord respectively in the present case.

After determination of the tenancy, landlord filed a suit for possession of and damages in respect of the suit property. The plaint was returned by the civil court for presentation to the Small Causes Court. The suit was renumbered as SC No. 161/2003. The Small Causes Court

decreed the suit for possession but declined the claim for damages by

observing that it did not have the jurisdiction to award damages.

Aggrieved against the decision of the Small Causes Court

declining damages, a revision petition was filed by the landlord in the High

Court which has been dismissed by the impugned order. It was held that the

Small Causes Court would have the jurisdiction to entertain the suit. Six

months were granted to the tenant to vacate the suit property.

The learned Single Judge while deciding the revision petition

followed the view taken by the Single Judge of the same High Court in

Ramesh P. Seth v.M.S. Krishna Murthy and Anr. [ILR 2002 Kar. 565]. Two

later judgments in Bangalore Printing & Publishing Co. Ltd. vs. Soukar T.

Premnath [ILR 2004 Kar. 98] and Khandelwal Brothers Co. Ltd. vs. G.S

Nisar Ahmed [ILR 2004 Kar. 2864] were brought to the notice of the

Hon'ble Judge taking a contrary view but he refused to follow them by

observing that "none of the aforesaid two judgments say that a Court of

Small Causes under the Act has no jurisdiction to entertain a claim or to

grant a relief falling within the exception carved out of Article 4 of the

Schedule of the Act."

Judicial discipline demands that even if a co-ordinate Bench of a

High Court were to disagree with the ratio laid down in an earlier decision

of another Bench of co-ordinate strength of the same High Court, in order to

maintain the judicial propriety in decision-making, it ought to have referred

the matter to a larger Bench to resolve the conflict and should have refrained from taking upon itself not to follow such decision and take a contra view. This inevitably leads to uncertainty and creates confusion. This practice must be deprecated at all costs.

A Bench of co-ordinate jurisdiction must not disregard the decision of the same strength on its own on an identical question. The rationale of this rule is the need for consistency, certainty and predictability in the administration of justice. It is undoubtedly vital in the administration of justice that those exercising judicial power must have the necessary freedom to doubt the correctness of an earlier decision if it is perceived by them that the decision in the earlier case is erroneous but, in such circumstances, it is reasonable and indeed efficacious to refer the case to a larger Bench. Passing contradictory orders should be avoided, lest it may cause confusion and uncertainty.

For the foregoing reason, without touching upon the merits of the case, we set aside the order impugned before us and remit the case back to the High Court for a fresh decision in accordance with law. All contentions are left open to be agitated before the High Court.

We would request Hon'ble the Chief Justice of the High Court to post this case for hearing and disposal at an early date, if possible.

The appeal stands allowed accordingly. No costs.

(ASHOK BHAN)

New Delhi;
.....J.
August 04, 2006.

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(MARKANDEY KATJU)