Prabhakar Rao N. Mawle

Vs

State of Andhra Pradesh

Civil Appeal No. 900 of 1963

(K. N. Wanchoo, M. Hidayatullah, K. Subha Rao, J. C. Shah, S. M. Sikri JJ)

09.04.1965

JUDGMENT

HIDAYATULLAH, J. –

On January 11, 1960, the Advocate General applied to the High Court of Andhra Pradesh, Hyderabad for action against the appellant Prabhakar Rao H. Mawle under s. 2 of the Vexatious Litigation (Prevention) Act 1949 (Madras Act VIII of 1949), on the allegation that Mawle had been "habitually" and without any reasonable ground instituting "vexatious proceedings" in the courts within the cities of Hyderabad and Secunderabad and also in the High Court and appearing in the cases in person; that he was responsible for a considerable amount of litigation or, in other words, that he was a vexatious, and habitual litigant. In support of the petition for the invocation of the punitive provisions of the Act, the Advocate-General referred to the following cases :-

(i) In C.R.P. No. 1765/58 Mawle described the judgment of the lower court as :

"..... shocking to the sense of justice, a grave dereliction of duty, flagrant abuse of fundamental principles of law and the natural justice, full with errors patent on the face, showing a gross manifest injustice done through the tyrannical arbitrary acts."

It was stated that Mawle apologised to the High Court to escape proceedings for contempt of court.

(ii) He filed a writ petition No. 1369/18 after the above Civil Revision Petition was dismissed and then preferred an appeal CCCA 42/59.

(iii) He filed a stay petition against an intended execution before steps were taken and when the petition was dismissed he filed an appeal C.M.A. 86/59 And obtained stay.

(iv) He filed an appeal against the dismissal of the writ petition 1369/58.

He was thus said to have asked for five remedies in one suit (O.S. 200 of 1958).

(v) In an appeal filed on 3-6-1959 he did not pay court fee of Rs. 995 as stamps were not available undertaking to pay the balance which he did not pay.

(vi) In S.R. 38516 and S.C.C.M.P. Mawle stated that as he had appeared in person -

"without any weightage to his submissions though of law, for in the ends of justice,

as against the professional privileges claimed by both these veteran advocates (Mr. O. V. Subbanayadu and Mr. Hari Narayanalal) even though they had taken the role of a party, sole witnesses, wearing false affidavits....".

(vii) In S.R. 12409/59 against decree in O.S. 109/1958, though himself the sole defendant, Mawle caused to be preferred an appeal in forma pauperis by his wife and children, getting the judgments under appeal privately printed and certifying them as true.

(viii) C.R.P. No. 1094/59 against the judgment in suit No. 198/2 dismissed against his tenant he filed a revision petition which was dismissed in limini.

(ix) C.R.P. No. 988/1959 filed against I.A. 230/58 in O.S. 99/2 of 1957 of the City Civil Court, Hyderabad was dismissed in limini.

(x) He has filed S.R. 31845/59 as L.P.A. against an order refusing to review C.R.P. against a Small Cause Suit and S.R. No. 27605/59 as a L.P.A. against an order in a petition refusing to condone the delay in filing a review petition in a C.R.P.

(xi) C.R.P. 954/1959 filed against an order in L.R. petition in a Small Cause Suit, originally attempted to be filed as an appeal, C.M.P. 5518 filed and stay ordered on condition that Mawle should deposit the decretal amount. He then withdrew the C.M.P.

(xii) Several criminal matter in High Court. Complaint in Cr. App. 406/58 and Crl. R.C. 506/59.

(xiii) C.M.P. 1858/57 for taking action against the respondent for alleged contempt of court.

(xiv) S.R. No. 43198/59, a L.P. Appeal.

The Advocate General claimed that though the Act was not extended to the area covered by the former Hyderabad State, it must be treated as the law in force there by reason of the States Reorganisation Act, 1956.

Mawle was heard on notice and, as was to be expected from a litigant of his sort, filed a fairly long statement in reply denying each accusation and explaining his conduct. He questioned the jurisdiction of the High Court of Andhra Pradesh to take action under the Act as its provisions were not extended to the area comprised in the former State of Hyderabad. He challenged the Act as ultra vires and unconstitutional on the ground that it abridged the right of citizens to seek redress in a court of law. He stated that he was a businessman and a landlord and owned considerable properties in the city of Hyderabad and other cities in the District and the State. He produced a certificate from the District Magistrate. He explained that owing to unpleasant experience he had to take away his work from advocates and since 1952 he had started conducting his own cases. He alleged that he had to recover a couple of lakhs of rupees from his clients/tenants etc. and had, therefore, to file a large number of cases. He attempted an explanation of the cases to which the Advocate General had referred in his petition.

The High Court by its judgment dated April 21, 1961, now under appeal, held that the Act was both

constitutional and intra vires, that the High Court had jurisdiction to make the order and that action under the Act was called for. The High Court ordered that no proceeding, civil or criminal, should be instituted by Mawle in the City of Hyderabad without the leave of the High Court, in the city of Secunderabad, without the leave of the Chief City Civil Judge and elsewhere without the leave of the District and Sessions Judge concerned. A copy of the order of the High Court was published in the Gazette of Andhra Pradesh as required by the Act. Mawle sought a certificate under Articles 132, 133, or 134 of the Constitution but the certificate was refused on the ground that no substantial question of law as to the interpretation of the Constitution or otherwise was involved. The petitioner then applied for and obtained special leave from this Court and filed the present appeal.

The Act with which we are concerned, though a copy substantially of 16 and 17 Vict. Ch. 30 (now replaced by section 51 of the Supreme Court of Judicature Consolidation Act, 1925 : 15 & 16 Geo V c. 49) is perhaps the only one of its kind in India. Its provisions are extremely brief and they may be read here :

> "1. Short title, extent and commencement.
>
> (1) This Act may be called the Vexatious Litigation (Prevention) Act, 1949.
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> (2) It extends to the whole of the State of Madras.
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> (3) It shall come into force at once.
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> 2. Leave of court necessary for vexatious litigant to institute proceedings.
>
> (1) If, on an application made by the Advocate-General, the High Court is satisfied that any person has habitually and without any reasonable ground instituted vexatious proceedings, civil or criminal, in any Court or Courts, the High Court may, after giving that person an opportunity of being heard, order that no proceedings, civil or criminal, shall be instituted by him in any Court -
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> (i) in the Presidency-town, without the leave of the High Court; and
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> (ii) elsewhere, without the leave of the District and Sessions Judge.
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> (2) If it appears to the High Court that the person against whom an application is made under sub-section (1), is unable, on account of poverty, to engage a pleader, the High Court may engage a pleader to appear for him.
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> Explanation - For the purpose of this section 'pleader' has the same meaning as in section 2, clause (15) of the Code of Civil Procedure, 1908.
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> 3. Leave to be granted only if prima facie ground exists. The leave referred to in section 2, sub-section (1), shall not be given in respect of any proceedings unless the High Court or, as the case may be, the District and Sessions Judge, is satisfied that there is prima facie ground for such proceedings.
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> 4. Proceedings instituted without leave to be dismissed. Any proceedings instituted by a person against whom an order under section 2, sub-section (1), has been made, without obtaining the leave referred to in that sub-section shall be dismissed :

Provided that this section shall not apply to any proceedings instituted for the purpose of obtaining such leave.

(5) Publication of orders.

A copy of every order made under section 2, sub-section (1), shall be published in the Fort St. George Gazette."

The High Court of Andhra Pradesh has held that it enjoys all the jurisdiction of the former High Court of Madras and thus the provisions of the Act create a jurisdiction in the High Court capable of being exercised in Telangana area even though the Act as such, has not been extended to this part of the territory of the State. The High Court also holds that the Act is perfectly valid.

In this appeal in addition to questioning the order on the above ground and also merits the appellant contends that the Madras Act itself was invalid inasmuch as it was not covered by any Entry in List II or III of the Government of India Act, 1935 and had not received the assent of the Governor-General. This argument is without substance. The Act had received the assent of the Governor-General and the subject of the legislation was covered by Entries 2 of List II and 2 and 4 of List III of the Government of India Act, 1935. The next argument of the appellant before us is that this Act is unconstitutional because it prevents some citizens from approaching the court and obtaining relief to which everyone is entitled in a State governed by Rule of Law. This argument really invokes Art. 19 and Art. 14. The latter Article is invoked because the Act, according to the appellant, seeks to create an unreasonable distinction between litigant and litigant. This argument is also not acceptable to us because the litigants who are to be prevented from approaching the court, without the sanction of the High Court etc., are in a class by themselves. They are described in the Act as persons who 'habitually' and 'without reasonable cause' file vexatious actions, civil or criminal. The Act is not intended to deprive such a person of his right to go to a court. It only creates a check so that the court may examine the bona fides of any claim before the opposite party is harassed. A similar Act, passed in England, has been applied in several cases to prevent an abuse of the process of court. In its object the Act promotes public good because it cannot be claimed that it is an inviolable right of any citizen to bring vexatious actions without control, either legislative or administrative. The Act subserves public interest and the restraint which it creates, is designed to promote public good. The Act does not prevent a person declared to be habitual litigant from bringing genuine and bona fide actions. It only seeks to cut short attempts to be vexatious. In our judgment, the Act cannot be described as unconstitutional or offending either Art. 19 or Art. 14.

The next contention of the appellant is that the Act has not been extended to the area of the former State of Hyderabad and the High Court cannot exercise jurisdiction in that area. This contention merits close scrutiny. The High Court has given a history of the evolution of the State and of the High Court of Andhra Pradesh. It is common knowledge that the High Court of Madras was founded by Letters Patent of 1865 and exercised all original, appellate and other jurisdictions conferred by that Letters Patent. The Act, which was passed by the Madras Provincial Legislature in 1949 conferred jurisdiction upon the Madras High Court to deal with cases of habitual litigants who were persistently filing vexatious actions and were guilty of an abuse of the process of court. This jurisdiction belonged to the High Court of Madras by virtue of the Act and was not an inherent jurisdiction whether as a Court of Record or otherwise.

When the State of Andhra was formed in 1953 by the Andhra State Act of 1953, the High Court of Madras ceased to exercise jurisdiction over the territory of the State of Andhra. This jurisdiction

was then to be exercised by the High Court of Andhra from a date to be appointed by the President. The jurisdiction of the Andhra High Court was to be the same as that of the Madras High Court. Section 30 of the Andhra State Act read as follows :-

> "30. Jurisdiction of Andhra High Court.
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> The High Court of Andhra shall have, in respect of the territories for the time being included in the State of Andhra, all such original, appellate and other jurisdiction as, under the law in force immediately before the prescribed day, is exercisable in respect of the said territories or any part thereof by the High court at Madras."

By virtue of this section the new High Court possessed the same powers and jurisdiction as the original Madras High Court in its territory. But by s. 53 of the Andhra Act no change was effected in the territorial extent of the laws and references in all laws to the State of Madras were to be adapted to refer to the new State in its application to the new State of Andhra. In other words, the Act continued to be an Act in force in the Andhra State and the Andhra High Court possessed the same jurisdiction as the former Madras High Court. So far no difficulty can be seen, but it is obvious that the original jurisdiction of the High Court of Madras in the Presidency Town could not be exercised at Guntur and did not follow the High Court.

The next change came in 1956 by the States Reorganisation Act, 1956. By that Act certain territories were amalgamated with the State of Andhra and prominent among those territories was the former Hyderabad State which for convenience may be referred to here as 'the Telangana Area'. The city of Hyderabad and the city of Secunderabad are in that area. The States Reorganisation Act, 1956 contained a special provision to limit the territorial extent of the laws in force in the different areas which were combined to from the State of Andhra Pradesh. Section 119 of the State Reorganisation Act provided as follows :-

> "119. Territorial extent of laws.
>
> The provisions of Part II shall not be deemed to have effected any change in the territories to which any law in force immediately before the appointed day extends or applies, and territorial reference in any such law to an existing State shall, until otherwise provided by a competent Legislature or other competent authority, be construed as meaning the territories within that State immediately before the appointed day."

The appellant relies upon this provision to state that the area of operation of the Act can only be the former territories of the State of Andhra and the Act is not applicable in the territory comprised in the Telangana Area. The other side contends that by virtue of s. 65 the High Court of Andhra Pradesh acquires all the jurisdiction of the High Court of the State of Andhra and therefore it acquires the jurisdiction invested by the Act in the former Andhra High Court. Section 65 of the States Reorganisation Act 1956 reads as follows :-

> "65. High Court of Andhra Pradesh.
>
> (1) As from the appointed day, -
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> (a) the jurisdiction of the High Court of the existing State of Andhra shall extend to the whole of the territories transferred to that State from the existing State of

Hyderabad;

(b) the said High Court shall be known as the High Court of Andhra Pradesh; and

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The question that arises is whether the application of the Act in the Telangana area is made impossible by s. 119 of the Act of 1956 or depends upon s. 65 of that Act. If the Act under which action is purported to be taken can be said to have operated territorially then it is obvious that the extent of territory in which it was to apply was not only not enlarged by the States Reorganisation Act but under s. 119 was kept rigid by limiting it to the territory of the former Andhra State. If, however, that Act created a jurisdiction in the High Court to deal with a particular class of litigants, who were habitually bringing vexatious suits it may be then possible to contend that jurisdiction continues to vest in the High Court of Andhra Pradesh. The High Court has viewed this matter from the latter angle and come to the conclusion that s. 65 and not s. 119 controls the matter.

The argument of the High Court is that the Act controls litigation and creates a new procedure in respect of persons who indulge habitually in vexatious litigation. The Act confers a jurisdiction to put such persons under a procedural restraint and this jurisdiction, the High Court holds, inhered in the former Madras High Court and later in the Madras and the Andhra High Courts separately and now it inheres in the Andhra Pradesh High Court. In the opinion of the High Court, the jurisdiction can be exercised within all the territories subject to the Andhra Pradesh High Court including the Telangana Area.

Mr. K. R. Choudhury in supplementing this reasoning points out that the High Court of Madras could take action against any person who acted in a manner to attract the provisions of the Act, irrespective of where the person came from. He contends that a vexatious litigant from Bengal or Bombay could be visited with the punitive provisions of the Act and submits that there is no reason why the Andhra Pradesh High Court cannot control the practice and procedure in the courts of the Telangana area in the same way. According to him, the Act must be treated as extended to the Telangana area as the Andhra Pradesh High Court continues to possess all the jurisdiction of the former Madras High Court. This was also the original plea of the Advocate-General in his petition in the High Court, though not apparently accepted by the High Court.

We do not accept the argument of Mr. Choudhury. The Madras Act was applied by the legislature only to the Madras Presidency. Suppose it had been applied to one district only. Could the High Court have said that notwithstanding the limited application, it would take action in the other districts of the Madras Presidency ? If it could not have extended the territorial limits of the application of the Act in Madras Presidency, the position is not any different now, in view of the provisions of s. 119 of the States Reorganisation Act which clearly lay down that no law of one of the amalgamating States is to be extended to the area of the other amalgamating States except by a competent legislative or other competent authority and further that the law shall be construed as restricted to the territories within each State immediately before the Reorganisation. The territorial area is thus not only not enlarged but is frozen. We may now consider whether s. 65 of the States Reorganisation Act makes any difference to this position.

The Act was designed to control vexatious litigation and it created for the purpose, a new procedure which applied to persons whose visits to courts, as litigants, were not only frequent but were also habitually vexatious. The Act enabled the Advocate-General to apply to the High Court and the

High Court on being satisfied that a person had been acting in this manner, could make an order that no proceeding thenceforward was to be filed by that person in the Presidency town without the leave of the High Court and else-where without the leave of the District & Sessions Judge. The Act was intended to apply in the whole of the Presidency of Madras including the area carved away from the Presidency of Madras and made into the State of Andhra in 1953 and which is now a part of the State of Andhra Pradesh after 1956. The Act was intended to operate territorially as indeed the clause dealing with the extent of application of the Act itself shows. In its operative part also the order was to be made with a territorial distinction between the Presidency Town and the rest of the Presidency of Madras. The order to be passed under the Act contemplated leave of the High Court before a suit was filed in the Presidency Town and the leave of the District & Sessions Judge elsewhere.

It is plain that on its terms the Act cannot apply in the State of Andhra Pradesh atleast in so far as the Presidency Town mentioned in s. 2(1)(i) is concerned. That Presidency Town was the city of Madras and therefore s. 2(1)(i) of the Act cannot apply in Andhra Pradesh, because there is no Presidency Town in Andhra Pradesh to which s. 2(1)(i) can now refer. The distinction between the city of Hyderabad and other parts of the State of Andhra Pradesh has been artificially brought into existence by the High Court by making the order in respect of the city of Hyderabad as if it was a Presidency Town. This is legislation pure and simple and it cannot be undertaken by the High Court. Section 2(1)(i) of the Act can no longer apply without a proper amendment. It may, however, be contended that s. 2(1)(ii) can apply and the whole of the new State of Andhra Pradesh may be taken to be governed by sub-cl. (ii). It would, however, be somewhat strange to make the District & Sessions Judge decide whether a particular litigant should be allowed to move the High Court in appeal, revision or in an original proceeding. The Act is unworkable in the State of Andhra Pradesh without substantial modifications to it.

This is not a question merely of procedural jurisdiction as the High Court has reasoned. No doubt the Act as it stood, vested a jurisdiction in the High Court to deal with a particular type of litigant but the Act made the High Court to deal with the matter territorially. It is because the territory has changed that the question arises whether the old jurisdiction of the High Court can now take in new territory. All laws are intended to operate territorially and no Provincial Legislature in India possessed extra-territorial jurisdiction. That the Madras Legislature enacted was to operate in its own territory and it said so in the Act. If new territories are to be governed by the Act it must be extended to the new territories and till it is extended the Act can only operate within the old territories and this is the obvious result of s. 119 of the States Reorganisation Act.

Thus there are two difficulties in the way of holding that this Act is operative in the Telangana area of the new State of Andhra Pradesh. To begin with it has not been extended to the area known as the Telangana area and, till extended, s. 119 of the States Reorganisation Act expressly prohibits an extension to the Telangana area by judicial construction. Secondly, there being no Presidency Town as such in the new State of Andhra Pradesh, s. 2(1)(i) cannot now be made applicable to the new State of Andhra Pradesh, until some other town is substituted by the Legislature in its place. The mention of the Presidency Town in s. 2(1)(i) was not with a view to indicate the seat of the High Court but was so made because the High Court possessed original jurisdiction in that area. The words 'Presidency Town' might, of course, have been amended to read Hyderabad, the seat of the Andhra Pradesh High Court, but his has not been done. No doubt the court under s. 121 of the States Reorganisation Act possesses a power to construe laws by adapting them in such a manner as to facilitate their application to the newly formed State, but the power which is exercisable is only a power of simple adaptation and not a power of legislation. An increase in the territories in which an

Act is to apply is dependent on legislation such as is contemplated by s. 119 of the States Reorganisation Act. What the High Court has done is more than an adaptation. It has not only substituted the city of Hyderabad for the Presidency town but it has also made the law applicable to Telangana courts contrary to the intendment of s. 119 of the States Reorganisation Act. Formerly the seat of the High Court was different and the Act must, on the same reasoning have applied there, so that the words 'Presidency Town' must have read as Guntur, at first and now they read Hyderabad. In our opinion, the High Court was in error in holding that the Act merely created a procedural jurisdiction in the High Court of Madras which on its division into two High Courts, inhered in both the High Courts and continues to inhere in the High Court of Andhra Pradesh even for purposes of areas to which the Act has not been extended. In this view of the matter the order made by the High Court cannot be sustained and it must be discharged.

We have not gone into the merits and there is much that justified action against Mawle. He has filed dozens of cases and has flooded courts with litigation often by way of repeated petitions on the same matter. As we find that the Act is not available against him we say nothing more. We may place on record that Mawle expressed his willingness before us to be restrained in his litigation and we hope that he will now make amends for his past conduct. We expect him to behave properly in future.

The appeal is allowed but in the circumstances of the case we make no order about costs.

Shah, J. The Provincial Legislature of Madras exercising power under the Government of India Act, 1935 enacted the Vexatious Litigation (Prevention) Act 8 of 1949. The material provisions of the Act are :-

> "2. (1) If, on an application made by the Advocate-General, the High Court is satisfied that any person has habitually and without any reasonable ground instituted vexatious proceedings civil or criminal, in any Court or Courts, the High Court may, after giving that person an opportunity of being heard, order that no proceedings, civil or criminal, shall be instituted by him in any Court -
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> (i) in the Presidency-town, without the leave of the High Court; and
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> (ii) elsewhere, without the leave of the District and Sessions Judge.
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> #(2) * * * *##
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> 3. The leave referred to in section 2, sub-section (1), shall not be given in respect of any proceedings unless the High Court or, as the case may be, the District and Sessions Judge, is satisfied that there is prima facie ground for such proceedings.
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> 4. Any proceedings instituted by a person against whom an order under section 2, sub-section (1), has been made, without obtaining the leave referred to in that sub-section shall be dismissed :
>
> Provided that this section shall not apply to any proceedings instituted for the purpose of obtaining such leave.
>
> 5. A copy of every order made under section 2, sub-section (1), shall be published in the Fort St. George Gazette."

By this Act the High Court of Madras was invested with power to place restrictions upon vexatious litigants. The principle of this legislation, it appears, was borrowed from statute 16 & 17 Vict. Ch. 30 enacted by the British Parliament. By Art 225 of the Constitution, the jurisdiction of the High Court of Madras, subject to the provisions of the Constitution and to the provisions of any law of the appropriate Legislature remained the same as immediately before the commencement of the Constitution. On September 14, 1953 the State of Andhra was carved out of the territories of the State of Madras by the Andhra State Act 30 of 1953. Section 28 of that Act provided :

> "(1) As from the 1st day of January, 1956, or such earlier date as may be appointed under sub-section (2) there shall be a separate High Court for the State of Andhra."

The High Court of Andhra which was constituted by a notification issued by the President had by s. 30, in respect of the territories included in the State of Andhra, all such original, appellate and other jurisdiction as under the law in force immediately before the prescribed day was exercisable in respect of the territories or any part thereof by the High Court at Madras. The Andhra High Court was therefore a successor of the High Court of Madras and exercised all the powers and administered the same law which the Madras High Court exercised in the territories comprised in the Andhra State. By s. 2(1) of Act 8 of 1949 the High Court of Madras was competent to issue an order against any person that no proceedings, civil or criminal, shall be instituted by him in any Court (i) in the Presidency-town without the leave of the High Court, and (ii) elsewhere, without the leave of the District and Sessions Judge; and this power, by virtue of s. 30 of Act 30 of 1953 became exercisable by the Andhra High Court. the expression "Presidency-town" means by the General Clauses Act, 1897 (s. 3(44)), the local limits of ordinary original jurisdiction of the High Court of Judicature at Calcutta, Madras or Bombay as the case may be, and there was no Presidency-town within the area of the Andhra State as constituted by Act 30 of 1953. The Parliament had, however, with a view to meet anomalies of the present nature expressly provided by s. 55 that "Notwithstanding that no provision or insufficient provision had been made under s. 54 for the adaptation of a law made before the appointed day, any court, * * * required or empowered to enforce such law may, for the purpose of facilitating its application in relation to the State of Andhra, * * construe the law with such alterations not affecting the substance as may be necessary or proper to adapt it to the matter before the court * * *." The expression "Presidency-town" must in the context of the constitution of a separate High Court for Andhra, after the State of Andhra was formed, mean the Capital town of the State in which the High Court was located. Such an adaptation does not affect the substance of the Act, and it would facilitate application thereof to the changed circumstances.

The new State of Andhra Pradesh was constituted under the States Reorganisation Act 37 of 1956 by incorporating certain areas specified in s. 3 to the territory of the old State of Andhra. By s. 65(1)(a) from the appointed day i.e. November 1, 1956 the jurisdiction of the High Court of the existing State of Andhra was, it was declared, to extend to the whole of the territories transferred to that State from the existing State of Hyderabad, the High Court was to be known as the High Court of Andhra Pradesh, and the principal seat of the High Court was to be at Hyderabad. The jurisdiction of the High Court of Andhra was by the express provision made in s. 65(1)(a) exercisable over the whole of the territory transferred to that State from the existing State of Hyderabad. The phraseology used by the Legislature, in my judgment, authorises the new High Court of Andhra Pradesh to exercise all jurisdiction which the High Court of Andhra could exercise before the appointed day.

The High Court of Andhra Pradesh made an order against the appellant on April 21, 1961 that no

proceedings, civil or criminal, shall be instituted by the appellant in the city of Hyderabad without the leave of the High Court; in the city of Secunderabad without the leave of the Chief City Civil Judge; and elsewhere without the leave of the District and Sessions Judge concerned. This was manifestly a personal direction which imposed restrictions upon the appellant. The power to impose a ban under s. 2, it may be noticed, vests only in the High Court : the power to remove the ban in specific cases is exercisable by the High Court, or a Judge of the District and Sessions Court according as the proceeding is to be instituted in a Court in the capital of the State where the High Court is located, or in any Court in the mofussil. There can therefore be no question of conflict of jurisdiction between the High Court and the District Court. Once the High Court pronounces and order under s. 2, it may be removed in appropriate cases only by the High Court where the proceeding is to be instituted in any Court in the Capital town in which the High Court is located and elsewhere by order of the District and Sessions Court. The Act confers jurisdiction upon the High Court and does not as a condition of its exercise require that the person to be restrained must be residing or have a domicile in any area within the jurisdiction of the Court invested with jurisdiction. Nor has the order contemplated to be passed any direct territorial operation : it is issued against a person individually and restrains him from instituting proceedings without leave of the Court specified in that behalf. A person - wherever residing or domiciled - may therefore be restrained by an order under s. 2.

But it is said that notwithstanding the comprehensive phraseology used by the Legislature in s. 65, because of s. 119 of the States Reorganisation Act 37 of 1956 a somewhat anomalous situation has resulted. It is claimed that the power with which the High Court is invested to prevent a litigant from instituting proceedings which are vexatious may be exercised in respect of proceedings to be instituted in courts within the limits of the former State of Andhra or which arise from proceedings decided by Courts in that area. The upshot of the argument is that a litigant may be treated as vexatious only in respect of proceedings to be instituted by him in the Courts of the Districts within the former State of Andhra and in respect of proceedings sought to be brought before the High Court in exercise of its appellate, revisional or superintending jurisdiction from orders made by Courts within the territory of the former State of Andhra : he may therefore be subjected to a disability in respect of proceedings to be instituted in some districts in the State and also in respect of proceedings reaching the High Court from cases instituted in those districts, and not in respect of the rest. What the effect of such a view may be upon the exercise of the High Court's jurisdiction under Arts. 226 and 227 of the Constitution, or the original jurisdiction, for instance, under the Companies Act or the Banking Companies Act, the appellant who has argued his case personally did not attempt to tackle. Section 119 of the States Reorganisation Act, 1956 provides :

> "The provisions of Part II shall not be deemed to have effected any change in the territories to which any law in force immediately before the appointed day extends or applies, and territorial references in any such law to an existing State shall, until otherwise provided by a competent Legislature or other competent authority, be construed as meaning the territories within that State immediately before the appointed day."

By that section the territorial extent of the laws in operation prior to the appointed day, until amended by a competent Legislature or other competent authority, continues. But s. 119 must be read harmoniously with s. 65(1)(a). The latter clause declares in unambiguous terms that the jurisdiction of the High Court of the existing State of Andhra shall extend to the whole of the territories transferred to that State from the existing State of Hyderabad. If it be granted that the High Court of the State of Andhra had jurisdiction to pass orders under the Vexatious Litigation

(Prevention) Act, it would be difficult to hold that s. 119 of Act 37 of 1956 still restricts the exercise of the power by the High Court to prevent a vexatious litigant from instituting proceedings in certain areas in the mofussil and not in others or from instituting proceedings by way of appeals or revisions from orders and decrees in proceedings instituted in the Courts in the area within the former State of Andhra and not elsewhere. The Parliament having by Act 30 of 1953 invested the High Court of Andhra with authority to exercise all jurisdiction which the High Court of Madras possessed within the territories of the State of Andhra as constituted and thereafter having by s. 65(1)(a) of Act 37 of 1956 extended the exercise of that authority over the entire territory of Andhra Pradesh, and in my judgment, it would be impossible to accept the argument that in respect of the jurisdiction conferred by the Vexatious Litigation (Prevention) Act 8 of 1949 the High Court was incompetent to pass the order which it did against the appellant.

I need not add anything to what Hidayatullah, J., has said in upholding the constitutionality of the provisions of the Act, for I agree with him that the Act is not unconstitutional as offending either Art. 19 or Art. 14 of the Constitution.

On the merits, however, I am of the opinion that the cases which the appellant had instituted in the various Courts did not justify a drastic order of the nature passed against him. The appellant claims that he is the owner of a large estate in the city of Hyderabad, and that is not denied : he also carries on an extensive business and in the course of carrying on his business and managing his estate, he has often to seek recourse to courts of law. The appellant says that because of certain reasons (which need not be set out) he conducts his litigation before the Courts without any professional assistance. Assuming that the appellant has in instituting and prosecuting cases which he had instituted shown less objectivity and more enthusiasm than a lawyer may in similar cases show, and had attempted to obtain benefit of what he thought were lacunae in the law, imposition of a blanket restriction against him of the nature imposed by the High Court may not seem to be warranted. I am unable to agree having carefully considered the nature of the various cases filed by the appellant or from the general progress of those cases as set out in the list of cases filed in this Court and the orders passed therein that those proceedings are vexatious or frivolous.

I would therefore allow the appeal, but not on the grounds which are set out by Hidayatullah, J.

Appeal allowed.

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