

T. Arivandandam

Vs

T. V. Satyapal and Another

Special Leave Petition (Civil) No. 4483 of 1977

(V. R. Krishna Iyer, Jaswant Singh JJ)

14.10.1977

ORDER

KRISHNA IYER, J. –

1. The pathology of litigative addiction ruins the poor of this country and the Bar has a role to cure this deleterious tendency of parties to launch frivolous and vexatious cases.
2. Here is an audacious application by a determined engineer of fake litigations asking for special leave to appeal against an order of the High Court on an interlocutory application for injunction. The sharp practice or legal legerdemain of the petitioner, who is the son of the 2nd respondent, stultifies the court process and makes a decree with judicial seals brutum fulmen. The long arm of the law must throttle such litigative caricatures if the confidence and creditability of the community in the judicature is to survive. The contempt power of the Court is meant for such persons as the present petitioner. We desist from taking action because of the sweet reasonableness of counsel Sri Ramasesh.
3. What is the horrendous enterprise of the petitioner ? The learned Judge has, with a touch of personal poignancy, judicial sensitivity and anguished anxiety, narrated the sorry story of a long-drawn out series of legal proceedings revealing how the father of the petitioner contested an eviction proceeding, lost it, appealed against it, lost again, moved a revision only to be rebuffed by summary rejection by the High Court. But the Judge, in his clement jurisdiction, gratuitously granted over six months' time to vacate the premises. After having enjoyed the benefit of this indulgence the maladroit party moved for further time to vacate. All these proceedings were being carried on by the 2nd respondent who was the father of the petitioner. Finding that the court's generosity had been exploited to the full, the 2nd respondent and the petitioner, his son, set upon a clever adventure by abuse of the process of the court. The petitioner filed a suit before the Fourth Additional First Munsif, Bangalore, for a declaration that the order of eviction, which had been confirmed right up to the High Court and resisted by the 2nd respondent throughout, was one obtained by 'fraud and collusion'. He sought an injunction against the execution of the eviction order. When this fact was brought to the notice of the High Court, during the hearing of the prayer for further time to vacate, instead of frowning upon the fraudulent stroke, the learned Judge took pity on the tenant and persuaded the landlord to give more time for vacating the premises on the basis that the suit newly and sinisterly filed would be withdrawn by the petitioner. Gaining time by another five months on this score, the father and son belied the hope of the learned Judge who thought that the litigative skirmishes would come to an end, but hope can be dupe when the customer concerned is a crook.
4. The next chapter in the litigative acrobatics of the petitioner and father soon followed since they

were determined to dupe and defy the process of the Court to cling on to the shop. The trick they adopted was to institute another suit before another Munsif making a carbon copy as it were of the old plaint and playing upon the likely gullibility of the new Munsif to grant an ex parte injunction. The first respondent entered appearance and exposed the hoax played upon the court by the petitioner and the second respondent. Thereupon the Munsif vacated the order of injunction he had already granted. An appeal was carried without success. Undaunted by all these defeats the petitioner came to the High Court in revision and managed to get an injunction over again. The second respondent promptly applied for vacating the temporary injunction and when the petitioner came up for hearing before Mr. Justice Venkataramayya, counsel for the petitioner submitted that he should not hear the case, the pretext put forward being that the petitioner had cutely mentioned the name of the Judge in the affidavit while describing the prior proceedings. The unhappy Judge, who had done all he could to help the tenant by persuading the landlord, found himself badly betrayed. He adjourned the case to the next day. The torment he underwent is obvious from his own order where he stated :

"I spent a sleepless night yesterday."

Luckily, he stabilised himself the next day and heard arguments without yielding to the bullying tactics of the petitioner and impropriety of this advocate. He went into the merits and dismissed the revision. Of course, these fruitless proceedings in the High Court did not deter the petitioner from daring to move this Court for special leave to appeal.

5. We have not the slightest hesitation in condemning the petitioner for the gross abuse of the process of the court repeatedly and unrepentently resorted to. From the statement of the facts found in the judgment of the High Court, it is perfectly plain that the suit now pending before the First Munsif's Court, Bangalore, is a flagrant misuse of the mercies of the law in receiving plaints. The learned Munsif must remember that if on a meaningful - not formal - reading of the plaint it is manifestly vexatious, and meritless, in the sense of not disclosing a clear right to sue, he should exercise his power under Order VII, Rule 11, C.P.C. taking care to see that the ground mentioned therein is fulfilled. And, if clever drafting has created the illusion of a cause of action, nip it in the bud at the first hearing by examining the party searchingly under Order X, C.P.C. An activist Judge is the answer to irresponsible law suits. The trial Courts would insist imperatively on examining the party at the first hearing so that bogus litigation can be shot down at the earliest stage. The Penal Code is also resourceful enough to meet such men, (Cr. XI) and must be triggered against them. In this case, the learned Judge to his cost realised what George Bernard Shaw remarked on the assassination of Mahatma Gandhi :

"It is dangerous to be too good."

6. The trial Court in this case will remind itself of Section 35-A, C.P.C. and take deterrent action if it is satisfied that the litigation was inspired by vexatious motives and altogether groundless. In any view, that suit has no survival value and should be disposed of forthwith after giving an immediate hearing to the parties concerned.

7. We regret the infliction of the ordeal upon the learned Judge of the High Court by a callous party. We more than regret the circumstance that the party concerned has been able to prevail upon one lawyer or the other to present to the Court a case which was disingenuous or worse. It may be a valuable contribution to the cause of justice if counsel screen wholly fraudulent and frivolous litigation refusing to be beguiled by dubious clients. And remembering that an advocate is an officer

of justice he owes it to society not to collaborate in shady actions. The Bar Council of India, we hope will activate this obligation. We are constrained to make these observations and hope that the co-operation of the Bar will be readily forthcoming to the Bench for spending judicial time on worthwhile disputes and avoiding the distraction of sham litigation such as the one we are disposing of. Another moral of this unrighteous chain litigation is the gullible grant of ex parte orders tempts gamblers in litigation into easy courts. A judge who succumbs to ex parte pressure in unmerited cases helps devalue the judicial process. We must appreciate Shri Ramasesh for his young candour and correct advocacy.

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