

BOMBAY HIGH COURT

Bell and Co. Ltd

Vs.

Waman Hemraj

Civil Revision Application No. 316 of 1936

(John Beaumont, Kt., C.J.)

30.07.1937

JUDGMENT

John Beaumont, Kt., C.J.

1. This is a revision application made against an order of the Small Cause Court Judge at Jalgaon. The application purports to be made under Section 25 of the Provincial Small Causes Courts Act, and in my opinion this case affords a good illustration of what I notice frequently when I am taking civil revision applications, and that is that learned Judges, who admit these applications do not always draw a distinction between appeal and revision. The scheme of the Small Causes Courts Act is to provide a summary remedy for recovering small sums, and it is an essential part of the scheme that the Judge's decision is final. Section 27 of the Act provides : " Save as provided by this Act, a decree or order made under the foregoing provisions of this Act by a Court of Small Causes shall be final," There is no appeal either on facts or law, but Section 25 provides :

"The High Court, for the purpose of satisfying itself that a decree or order made in any case decided by a Court of Small Causes was according to law, may call for the case and pass such order with respect thereto as it thinks fit." In my opinion that section ought not to be construed as giving the parties a right of appeal on points of law. The object of Section 25 is to enable the High Court to see that there has been no miscarriage of justice, that the decision was given according to law. The section does not enumerate the cases in which the Court may interfere in revision, as does Section 115 of the Civil Procedure Code, and I certainly do not propose to attempt an exhaustive definition of the circumstances which may justify such interference ; but instances which readily occur to the mind are cases in which the Court which made the order had no jurisdiction, or in which the Court has based its decision on evidence which should not have been admitted, or cases where the unsuccessful party has not been given a proper opportunity of being

heard, or the burden of proof has been placed on the wrong shoulders. Wherever the Court comes to the conclusion that the unsuccessful party has not had a proper trial according to law, then the Court can interfere. But, in my opinion, the Court ought not to interfere merely because it thinks that possibly the Judge who heard the case may have arrived at a conclusion which the High Court would not have arrived at.

2. Now in this case the dispute between the parties arises under a hire-purchase agreement. The Judge conducted the trial regularly, and he arrived at a certain conclusion as to the construction of the hire-purchase agreement, and the rights of the parties thereunder. Whether that conclusion was right or not would be open to discussion in appeal, but it is not open to discussion in revision. Mr. Manerikar says that the learned Judge was wrong in law, and has disregarded a decision of this High Court, and that it is very necessary in the public interest that his judgment should be corrected. The short answer to that is that if the learned Judge's judgment is not in accordance with a decision of this Court, other Judges no doubt will follow the decision of this Court. The decision of the Small Causes Court is not likely to be reported, and no public benefit will be served by my repeating what has already been decided by this Court. However I do not propose to go into the merits of the question. To do so would be to allow an appeal against a decision of the Judge of the Court of Small Causes, and that the statute has forbidden. That being so, I am not prepared to interfere. Application dismissed with costs.
Application dismissed.