
**K. Ponnamal and Others Vs V. Thayanban, Rajeswari Vasudevan and Dr.
Jayashree Mani**

C.R.P. (PD) No. 4593 of 2011

Court: Madras High Court

Date of Decision: March 26, 2012

Acts Referred:

Civil Procedure Code, 1908 (CPC) " Order 39 Rule 1, Order 39 Rule 2, Order 39 Rule 3,
Order 43 Rule 1(r), Order 7 Rule 11#Constitution of India, 1950 " Article 226, 227, 227(2),
227(3), 235#Government of India Act, 1915 " Section 107

Hon'ble Judges: M.Y. Eqbal, C.J

Bench: Single Bench

Advocate: Hema Sampath, for Mrs. R. Meenal, for the Appellant; V.V. Giridhar, For
Respondent-1, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Hon"ble Mr. M.Y. Eqbal, Chief Justice

1. Petitioners have filed this Civil Revision Petition under Article 227 of the Constitution of India seeking to strike off the plaint in the suit filed by

the first respondent herein, viz. O.S. No. 8134 of 2011 on the file of the XVI Assistant City Civil Court Judge, Chennai. The facts of the case lie in

a narrow compass :-

The plaintiff, who is the first respondent herein, filed a suit in O.S. No. 8134 of 2011 on the file of the XVI Assistant City Civil Court Judge,

Chennai for a permanent injunction restraining the defendants therein from dealing with the suit property to an extent of 7.46 acres of land

comprised in Survey Nos. 24/2, 25/2B, 26, 56, 58, 59, 60 and 61(Part) at Nerkundram Village in any manner, including bringing the property for

sale without paying the consideration to the plaintiff as per the Memorandum of Understanding dated 14.8.2008 entered into between the plaintiff

and the defendants.

2. The relevant facts pleaded by the plaintiff/1st respondent in the plaint is that he entered into a Memorandum of Understanding on 14.8.2008,

wherein it was agreed that the plaintiff/1st respondent would use his good offices to obtain No Objection Certificate from the Chennai

Metropolitan Development Authority (CMDA) for getting approval and to procure a buyer in respect of the suit schedule property belonging to

the defendants/petitioners. The defendants agreed to pay commission immediately after obtaining the No Objection Certificate from the CMDA.

However, after obtaining the NOC, the defendants requested the plaintiff to secure a buyer for the suit schedule property and promised to pay his

commission out of the sale proceeds as they did not sufficient funds at that point of time. Though the plaintiff had obtained the NOC after a great

deal of difficulty, he was made to wait for the sale of the suit property to get his agreed commission. The MoU also stipulated that the plaintiff

would secure buyers for the suit schedule property at around rupees sixteen crores per acre. Apart from the above two works, it was agreed that

the plaintiff should keep the defendants informed about the developments and also supply the defendants, copies of the documents submitted to the

CMDA and other authorities. As per Clause 4 of the MoU, for completion of the above work, it was agreed that the plaintiff would be paid a sum

of Rs. 14.92 crores by the buyer of the property and the above amount would be payable upon the sale of the property and only after registration

of sale deed in favour of the proposed purchaser. In addition, it was also agreed that the plaintiff would be paid a service charge of a sum equal to

5% of the net sale prize, viz. 16 crores per acre for 7.46 acres, after deducting the amount paid as above and also Rs. 35 lakhs paid towards the

expenses multiplied by 5% of the property at the time of registration of the sale deed, as additional compensation by the buyer of the property for

the actions undertaken by the plaintiff in obtaining NOC and procuring a prospective buyer for the property. As per Clause 5(b) of the MoU, it

was agreed that the defendants would pay a maximum of Rs. 35 lakhs for incidental expenses to the plaintiff. It was initially agreed that the plaintiff

would complete all the above works on or before 13.2.2009. However, the above period was periodically extended by mutual consent between

the parties, and the MoU was also periodically extended, and finally the period for completion of the above work was extended till 15.5.2011. As

per the terms of the MoU, it was the duty of the defendants to furnish copies of patta, chitta adangal, sale deed documents, any form of

correspondence and all revenue records to the plaintiff. Apart from the above, the defendants would also furnish copies of relevant documents

pertaining to the property to the plaintiff to facilitate him to proceed further in obtaining the NOC from CMDA and to procure the prospective

purchasers for the above property. The defendants had suppressed the fact that initially they did not have patta for the suit property in their name.

3. The plaintiff/1st respondent further pleaded in the plaint that in accordance with the terms of the MoU, the plaintiff had taken all earnest steps to

obtain No Objection Certificate from the CMDA, for which purpose the plaintiff obtained a direction from this Court to the CMDA to issue the

NOC by filing W.P. No. 28198 of 2008. As per the terms of the MoU, the defendants were duty bound to furnish all relevant documents

pertaining to the suit property, but on verification, it was found that patta had not been issued in favour of the defendants in respect of the suit

schedule property. Since there was breach of the terms of the MoU by the defendants in suppressing that there was no patta in their name in

respect of the suit schedule property, the plaintiff could not pursue further in getting prospective purchasers for the suit property in the absence of a

valid patta. The plaintiff thereafter took steps for obtaining patta in the name of the defendants, which ultimately came to be issued on 2.8.2010.

This resulted in delay in the plaintiff performing his part of the MoU, but the delay was actuated by the plaintiffs suppressing the aforesaid fact and

therefore, the defendants extended the time for completion of the transaction without demur. After issuance of patta in respect of the suit schedule

property, there were a lot of prospective purchasers for the clear and marketable property willing to purchase the same at the present market

value. However, the defendants were unwilling to co-operate with the plaintiff in completing the sale, and the plaintiff suspected that the defendants

wanted to evade from the liability of paying the agreed commission to the plaintiff as warranted by the terms of the MoU. The plaintiff came to

know that the defendants were trying to proceed with the sale of the property on their own, without the involvement of the plaintiff, thereby

violating the terms of the MoU and putting the plaintiff to irreparable loss and hardship.

4. According to the plaintiff, the suit schedule property was only a barren land and there were no takers thereto, but after he had taken over charge

thereof, he had put in full efforts from the year 2007 to make the suit schedule property a marketable property and developed it to the present

shape, whereby there were clear prospects of selling it at the current market price. Further, it was only on account of the efforts put in by the

plaintiff that the NOC could be obtained from the CMDA and also the patta came to be issued for the suit schedule property, as without patta, the

land could never have been sold in the open market. Thus, the plaintiff had clearly stood by the terms stipulated in the MoU. The delay in bringing

the property up for sale was purely on account of the non-cooperation of the defendants. According to him, he has got interest accrued in the suit

schedule property to the extent of the consideration payable to him for the tasks performed by him pursuant to the MoU, and the defendants

cannot be allowed to defeat the valuable rights of the plaintiff by denying him the consideration agreed to be paid by them. It is stated that the

defendants had readily agreed for extension of time for completing the work since the mistake was only on their part and now, the defendants are

trying to take undue advantage of their own mistake and are denying consideration to the plaintiff citing delay in executing the work entrusted to

him. Thus, according to the plaintiff, in the interest of justice, it was just and necessary to restrain the defendants from dealing with the suit schedule

property in any manner whatsoever by subverting the rights of the plaintiff in the property and to defeat the rights of the plaintiff in taking the

consideration for the work done by him, as agreed to be paid under the MoU.

5. The plaintiff/1st respondent filed a separate interlocutory application under Order 39 Rule 1 of C.P.C. and prayed for the grant of ad interim

injunction restraining defendants/petitioners herein, their men, agents and servants from dealing with the suit property in any manner whatsoever

including any form of conveyance or bringing the property for sale or relinquishing their right in the suit property for valuable consideration or

compensation. The Court below after hearing the plaintiff/1st respondent herein on the I.A. granted ad interim injunction against the

defendants/petitioners herein. The Order dated 01.11.2011 passed by the Court below granting ad interim injunction reads as under:- Heard,

perused the documents. As per Clause 3 of Memorandum of Understanding, i.e. Plaintiff Document No. 1, the petitioner shall use his best efforts

with influence of his Associates to obtain the NOC from the CMDA and procure a buyer for the property at more (or) less Rs. 16 crores per

acre, for the approval by the defendants/respondents. In addition to that, the petitioner shall be paid a service charge sum equal to 5% of the sale

price. The petitioner has acted as per the terms of MoU and the petitioner did not violate the terms and conditions of the MoU, and however, the

respondents are not co-operating with the petitioner in completing the sale and the respondents have become greedy and they want to defraud the

petitioner with the consideration as agreed under the MoU.

Prima facie case made out and balance of convenience also lies upon the petitioner. Ad interim injunction granted against the respondents till

29.11.2011. Comply Order 39 Rule 3, Issue notice to respondents. Call on 29.11.2011.

6. The defendants, who are the petitioners herein instead of appearing in the suit have filed this petition under Article 227 of the Constitution of

India seeking a prayer to strike off the plaint on the ground inter alia that the Court below has failed to consider that the suit was not properly

valued for the purpose of court-fee and jurisdiction and the Court below lacked pecuniary as well as territorial jurisdiction to try this suit. Further,

the trial court ought to have looked at the substance of the relief sought for in the suit and should not have been carried away by the language of the

plaint or the relief claimed therein. The trial court failed to note that the respondent was actually attempting to enforce a MoU involving crores of

rupees and in respect of a land lying outside the territorial jurisdiction of the court.

7. Mrs. Hema Sampath, learned Senior Counsel appearing for the petitioners/defendants submitted that the suit was not valued properly for the

purpose of court-fee and jurisdiction, that the Court below lacked both pecuniary and territorial jurisdiction, that the trial court erred in not looking

at the substance of the relief sought for in the suit, that the Court below failed to note that the 1st respondent/plaintiff was actually attempting to

enforce a MOU involving crores of rupees and for a land lying outside its territorial jurisdiction, that since the 1st respondent/plaintiff was abusing

the process of Court it ought to have rejected the plaint in limine, and that the Court below grievously erred in granting an equitable relief in favour

of the 1st respondent/plaintiff. Learned Senior Counsel finally submitted that it is a fit case where this Court under Article 227 of the Constitution of

India can strike off the plaint. In this connection, the learned Senior Counsel relied upon the decisions in Suryanarayana Paper and Boards Pvt.

Ltd. and others Vs. V. Padmakumar and others, and Suguna Poultry Farm Limited, S.C.M. Creations and NEG Micon (India) Pvt. Ltd. Vs. Arul

Mariamman Textiles Limited, .

8. On the other hand, Mr. V.V.Giridhar, learned counsel appearing for the 1st respondent/plaintiff submitted that the suit filed by the plaintiff is not

for claiming any right, title or interest in the property, rather the suit is for enforcement of a Memorandum of Understanding according to which the

petitioners/defendants are bound to fulfil the terms and conditions of the said MOU. Learned counsel further submitted that most of the defendants

reside within the jurisdiction of this court and the suit is within the territorial and pecuniary jurisdiction of the Court where it was filed. Learned

counsel lastly submitted that the plaint is not liable to be struck off by this Court on the grounds pleaded by the defendants/petitioners herein.

9. The only question therefore that falls for consideration is as to whether in the facts and circumstances of the case, can this Court, in exercise of

its supervisory power under Article 227 of the Constitution of India strike off the plaint.

10. It is well settled that the power conferred by the Constitution on the High Courts in each State under Article 227 of the Constitution is not only

confined to judicial superintendence but also administrative superintendence over subordinate Courts and Tribunals. This is because each High

Court is the highest Court in the State. The judicial power of superintendence enable the High Courts to ensure that sub-ordinate Courts and

Tribunals function within the boundary of law. The judicial as well as administrative superintendence is to be exercised if it is found that there is a

serious breach of law which resulting injustice to the parties. Articles 233 to 237 of the Constitution of India confer and vest the power in the High

Court to control over all District Courts and other Sub-ordinate Courts and Tribunal. It is worth to quote a passage of the book [Constitutional

Law of India, 4th Edition) by H.M. Seervai which reads as under;--

There is nothing surprising in our Constitution conferring on the High Courts in each State, and not on the Sup. Ct., the power and administrative

and judicial superintendence over subordinate Courts and Tribunals. This is because each High Court is the highest Court in the State and is the

highest Court of Appeal? The number of sub-ordinate Courts, civil, criminal revenue, etc. and the number of Tribunals exercising the judicial power

of the State is very large in each State. The judicial power of superintendence enables the High Courts to ensure that sub-ordinate Courts and

Tribunals function within the bounds of law. The power of judicial superintendence is not to be lightly exercised, e.g. for a mere error of law or

fact, but is to be exercised if the error results in a serious breach of the law and/or produces injustice. Again, administrative superintendence

includes, inter alia, the power to call for returns from such Courts; to make and issue general rules and prescribe forms for regulating the practice

and proceeding of such Courts [Article 227(2)(a) and (b)] and also to settle tables of fees to be allowed to the sheriff and all clerks and officers of

such Courts and to Attorneys, Advocates and pleaders practising therein [Art. 227(3)]. It is obvious that the power conferred by Art. 227(2) and

(3) could not have been conferred on the Sup. Ct. as the wording of Art. 227(2) and (3) clearly shows. It may be mentioned that, as we have

seen, the power of superintendence over sub-ordinate Courts has been both administrative and judicial.

11. In the case of Waryam Singh and Another Vs. Amarnath and Another, , their Lordships gave a lucid account of the history of High Court's

power of superintendence and observed :

Re. 2.--The material part of Article 227 substantially reproduces the provisions of Section 107 of the Government of India Act, 1915 except that

the power of superintendence has been extended by the Article also to Tribunals. That the Rent Controller and the District Judge exercising

jurisdiction under the Act are Tribunals cannot and has not been controverted. The only question raised is as to the nature of the power of

superintendence conferred by the Article. Reference is made to Clause (2) of the Article in support of the contention that this Article only confers

on the High Court administrative superintendence over the sub-ordinate Courts and Tribunals. We are unable to accept this contention because

Clause (2) is expressed to be without prejudice to the generality of the provisions is Clause (1). Further, the preponderance of judicial opinion in

India was that Section 107 which was similar in terms to Section 15 of the High Courts Act, 1861, gave a power of judicial superintendence to the

High Court apart from and independently of the provisions of other laws conferring revisional jurisdiction on the High Court.

12. In the case of Achutananda Baidya Vs. Prafulla Kumar Gayen and others, while dealing with the power of superintendence of the High Court

under Article 227 of the Constitution of India observed:-

10. The power of superintendence of the High Court under Article 227 of the Constitution is not confined to administrative superintendence only

but such power includes within its sweep the power of judicial review. The power and duty of the High Court under Article 227 is essentially to

ensure that the courts and tribunals, inferior to High Court, have done what they were required to do. Law is well settled by various decisions of

this Court that the High Court can interfere under Article 227 of the Constitution in cases of erroneous assumption or acting beyond its jurisdiction,

refusal to exercise jurisdiction, error of law apparent on record as distinguished from a mere mistake of law, arbitrary or capricious exercise of

authority or discretion, a patent error in procedure, arriving at a finding which is perverse or based on no material, or resulting in manifest injustice.

As regards finding of fact of the inferior court, the High Court should not quash the judgment of the subordinate court merely on the ground that its

finding of fact was erroneous but it will be open to the High Court in exercise of the powers under Article 227 to interfere with the finding of fact if

the subordinate court came to the conclusion without any evidence or upon manifest misreading of the evidence thereby indulging in improper

exercise of jurisdiction or if its conclusions are perverse.

13. In the case of Surya Dev Rai Vs. Ram Chander Rai and Others, the Supreme Court while considering a case where the appellant before the

Supreme Court filed a civil suit in the Court of a Civil Judge for permanent preventive injunction based on title and possession over the suit

property. The petition under Order 39 Rules 1 and 2 of the C.P.C. was rejected by the trial court as also by the appellate court. Being aggrieved

thereby the appellant, who could no longer avail the remedy u/s 115 of the C.P.C. after its amendment, filed a petition in the High Court labelling it

as one under Article 227 of the Constitution. The High Court summarily dismissed the writ petition forming an opinion that the petition was not

maintainable. The matter went in appeal before the Supreme Court. While discussing the power under Article 227 their Lordships observed:-

24. The difference between Articles 226 and 227 of the Constitution was well brought out in Umaji Keshao Meshram and Others Vs. Radhikabai

and Another, Proceedings under Article 226 are in exercise of the original jurisdiction of the High Court while proceedings under Article 227 of the

Constitution are not original but only supervisory. Article 227 substantially reproduces the provisions of Section 107 of the Government of India

Act, 1915 excepting that the power of superintendence has been extended by this article to tribunals as well. Though the power is akin to that of

an ordinary court of appeal, yet the power under Article 227 is intended to be used sparingly and only in appropriate cases for the purpose of

keeping the subordinate courts and tribunals within the bounds of their authority and not for correcting mere errors. The power may be exercised in

cases occasioning grave injustice or failure of justice such as when (i) the court or tribunal has assumed a jurisdiction which it does not have, (ii) has

failed to exercise a jurisdiction which it does have, such failure occasioning a failure of justice, and (iii) the jurisdiction though available is being

exercised in a manner which tantamounts to overstepping the limits of jurisdiction.

26. In order to safeguard against a mere appellate or revisional jurisdiction being exercised in the garb of exercise of supervisory jurisdiction under

Article 227 of the Constitution, the courts have devised self-imposed rules of discipline on their power. Supervisory jurisdiction may be refused to

be exercised when an alternative efficacious remedy by way of appeal or revision is available to the person aggrieved. The High Court may have

regard to legislative policy formulated on experience and expressed by enactments where the legislature in exercise of its wisdom has deliberately

chosen certain orders and proceedings to be kept away from exercise of appellate and revisional jurisdiction in the hope of accelerating the

conclusion of the proceedings and avoiding delay and procrastination which is occasioned by subjecting every order at every stage of proceedings

to judicial review by way of appeal or revision. So long as an error is capable of being corrected by a superior court in exercise of appellate or

revisional jurisdiction, though available to be exercised only at the conclusion of the proceedings, it would be sound exercise of discretion on the

part of the High Court to refuse to exercise the power of superintendence during the pendency of the proceedings. However, there may be cases

where but for invoking the supervisory jurisdiction, the jurisdictional error committed by the inferior court or tribunal would be incapable of being

remedied once the proceedings have concluded.

38. Such like matters frequently arise before the High Courts. We sum up our conclusions in a nutshell, even at the risk of repetition and state the

same as hereunder:

(1) Amendment by Act 46 of 1999 with effect from 1-7-2002 in Section 115 of the CPC cannot and does not affect in any manner the jurisdiction

of the High Court under Articles 226 and 227 of the Constitution.

(2) Interlocutory orders, passed by the courts subordinate to the High Court, against which remedy of revision has been excluded by CPC

Amendment Act 46 of 1999 are nevertheless open to challenge in, and continue to be subject to, certiorari and supervisory jurisdiction of the High

Court.

(3) Certiorari, under Article 226 of the Constitution, is issued for correcting gross errors of jurisdiction i.e. when a subordinate court is found to

have acted (i) without jurisdiction by assuming jurisdiction where there exists none, or (ii) in excess of its jurisdiction by overstepping or crossing

the limits of jurisdiction, or (iii) acting in flagrant disregard of law or the rules of procedure or acting in violation of principles of natural justice where

there is no procedure specified, and thereby occasioning failure of justice.

(4) Supervisory jurisdiction under Article 227 of the Constitution is exercised for keeping the subordinate courts within the bounds of their

jurisdiction. When a subordinate court has assumed a jurisdiction which it does not have or has failed to exercise a jurisdiction which it does have

or the jurisdiction though available is being exercised by the court in a manner not permitted by law and failure of justice or grave injustice has

occasioned thereby, the High Court may step in to exercise its supervisory jurisdiction.

14. In the case of State, through Special Cell, New Delhi Vs. Navjot Sandhu @ Afshan Guru and Others, the Supreme Court observed:-

28. Thus the law is that Article 227 of the Constitution of India gives the High Court the power of superintendence over all courts and tribunals

throughout the territories in relation to which it exercises jurisdiction. This jurisdiction cannot be limited or fettered by any Act of the State

Legislature. The supervisory jurisdiction extends to keeping the subordinate tribunals within the limits of their authority and to seeing that they obey

the law. The powers under Article 227 are wide and can be used, to meet the ends of justice. They can be used to interfere even with an

interlocutory order. However the power under Article 227 is a discretionary power and it is difficult to attribute to an order of the High Court, such

a source of power, when the High Court itself does not in terms purport to exercise any such discretionary power. It is settled law that this power

of judicial superintendence, under Article 227, must be exercised sparingly and only to keep subordinate courts and tribunals within the bounds of

their authority and not to correct mere errors. Further, where the statute bans the exercise of revisional powers it would require very exceptional

circumstances to warrant interference under Article 227 of the Constitution of India since the power of superintendence was not meant to

circumvent statutory law. It is settled law that the jurisdiction under Article 227 could not be exercised #as the cloak of an appeal in disguise.

15. In the case of Sadhana Lodh Vs. National Insurance Company Ltd. and Another, the Supreme Court held that -

6. The right of appeal is a statutory right and where the law provides remedy by filing an appeal on limited grounds, the grounds of challenge

cannot be enlarged by filing a petition under Articles 226/227 of the Constitution on the premise that the insurer has limited grounds available for

challenging the award given by the Tribunal. Section 149(2) of the Act limits the insurer to file an appeal on those enumerated grounds and the

appeal being a product of the statute it is not open to an insurer to take any plea other than those provided u/s 149(2) of the Act (see National

Insurance Co. Ltd., Chandigarh Vs. Nicolletta Rohtagi and Others,). This being the legal position, the petition filed under Article 227 of the

Constitution by the insurer was wholly misconceived. Where a statutory right to file an appeal has been provided for, it is not open to the High

Court to entertain a petition under Article 227 of the Constitution. Even if where a remedy by way of an appeal has not been provided for against

the order and judgment of a District Judge, the remedy available to the aggrieved person is to file a revision before the High Court u/s 115 of the

Code of Civil Procedure. Where remedy for filing a revision before the High Court u/s 115 CPC has been expressly barred by a State enactment,

only in such case a petition under Article 227 of the Constitution would lie and not under Article 226 of the Constitution. As a matter of illustration,

where a trial court in a civil suit refused to grant temporary injunction and an appeal against refusal to grant injunction has been rejected, and a

State enactment has barred the remedy of filing revision u/s 115 CPC, in such a situation a writ petition under Article 227 would lie and not under

Article 226 of the Constitution. Thus, where the State Legislature has barred a remedy of filing a revision petition before the High Court u/s 115

CPC, no petition under Article 226 of the Constitution would lie for the reason that a mere wrong decision without anything more is not enough to

attract jurisdiction of the High Court under Article 226 of the Constitution.

7. The supervisory jurisdiction conferred on the High Courts under Article 227 of the Constitution is confined only to see whether an inferior court

or tribunal has proceeded within its parameters and not to correct an error apparent on the face of the record, much less of an error of law. In

exercising the supervisory power under Article 227 of the Constitution, the High Court does not act as an appellate court or the tribunal. It is also

not permissible to a High Court on a petition filed under Article 227 of the Constitution to review or reweigh the evidence upon which the inferior

court or tribunal purports to have passed the order or to correct errors of law in the decision.

16. In the case of *Jasbir Singh Vs. State of Punjab*, the Supreme Court observed:-

10. The power of superintendence over all the subordinate courts and tribunals is given to the High Court under Article 227 of the Constitution. So

also, under Article 235 of the Constitution, the High Courts exercise control over all the district courts and courts subordinate thereto on all matters

relating to posting, promotion and grant of leave to officers belonging to the judicial service of the State. The power of superintendence conferred

on the High Court under Article 227 over all the courts and tribunals throughout the territory of the State is both of administrative and judicial

nature and it could be exercised suo motu also. However, such power of superintendence does not imply that the High Courts can influence the

subordinate judiciary to pass any order or judgment in a particular manner. The extraordinary power under Article 227 can only be used by the

High Courts to ensure that the subordinate courts function within the limits of their authority. The High Court cannot interfere with the judicial

functions of a Subordinate Judge.

14. So, even while invoking the provisions of Article 227 of the Constitution, it is provided that the High Court would exercise such powers most

sparingly and only in appropriate cases in order to keep the subordinate courts within the bounds of their authority. The power of superintendence

exercised over the subordinate courts and tribunals does not imply that the High Court can intervene in the judicial functions of the lower judiciary.

The independence of the subordinate courts in the discharge of their judicial functions is of paramount importance, just as the independence of the

superior courts in the discharge of their judicial functions. It is the members of the subordinate judiciary who directly interact with the parties in the

course of proceedings of the case and therefore, it is no less important that their independence should be protected effectively to the satisfaction of

the litigants. The independence of the judiciary has been considered as a part of the basic structure of the Constitution and such independence is

postulated not only from the executive, but also from all other sources of pressure. In *S.P. Gupta Vs. President of India and Others*, speaking on

the independence of the judiciary, a Bench of seven Judges observed as under at p. 223: (SCC para 27) The concept of independence of the

judiciary is a noble concept which inspires the constitutional scheme and constitutes the foundation on which rests the edifice of our democratic

polity. # But it is necessary to remind ourselves that the concept of independence of the judiciary is not limited only to independence from

executive pressure or influence but it is a much wider concept which takes within its sweep independence from many other pressures and

prejudices. It has many dimensions, namely, fearlessness of other power centres, economic or political, and freedom from prejudices acquired and

nourished by the class to which the judges belong.

17. In the light of the principles laid down by the Supreme Court, in the aforesaid cases, it can safely be concluded that :

(i) power of judicial superintendence under Article 227 must be exercised sparingly only to keep the courts and tribunals within their bounds of

authority and not to correct mere errors;

(ii) the supervisory jurisdiction conferred on the High Court under Article 227 of the Constitution is confined only to see whether an inferior court

or tribunal has proceeded within its parameter and not to correct an error apparent on the face of the record;

(iii) where the law provides remedy by filing an appeal or revision, then exercise of power under Article 227 may be refused, on the ground of

availability of such alternative efficacious remedy by way of appeal or revision to the aggrieved party.

18. Applying the conclusions arrived at herein above, in the instant case, we find that the revision petition cannot be entertained and the relief

sought for cannot be granted by this Court in exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

19. As notice above, in the suit the Court below has granted ad interim injunction against the respondents/petitioners herein and notice has been

issued in compliance of the provisions contained under Order 39 Rule 3 of the Code of Civil Procedure. Against the aforesaid order of ad interim

injunction two statutory remedies are available to the respondents/petitioners herein viz., firstly they can challenge the said order by filing an appeal

as the said order is appealable under Order 43 Rule 1(r) of the C.P.C. and secondly, the respondents/petitioners herein on receipt of notice may

appear in the suit and oppose the ad interim injunction granted by the court. If such objection or show cause is filed by the respondents/petitioners

herein opposing the grant of ad interim injunction, then the Court below is bound to decide and dispose of such application within 30 days from the

date on which the injunction was granted.

20. Apart from that the petitioners herein have other statutory alternative remedies available under the Code of Civil Procedure. The petitioners

herein, who are the defendants in the pending suit, may also move the Court below by filing an application for rejection of the plaint under Order 7

rule 11 of the C.P.C., which reads as under:-

11.Rejection of plaint:- The plaint shall be rejected in the following cases:-

(a) where it does not disclose a cause of action;

(b) where the relief claimed is under-valued, and the plaintiff, on being required by the Court to so correct the valuation within a time to be fixed by

the Court, fails to do so;

(c) where the relief claimed is property valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the

Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;

(d) where the suit appears from the statement in the plaint to be barred by any law;

(e) where it is not filed in duplicate;

(f) where the plaintiff fails to comply with the provisions of rule 9;

Provided that the time fixed by the Court for the correction of the valuation or supply of the requisite stamp-papers shall not be extended unless the

Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation

or supplying the requisite stamp-papers, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause

grave injustice to the plaintiff.

21. It is, therefore, manifest that the respondents/petitioners herein instead of availing the remedies provided under the CPC have erroneously

invoked the jurisdiction of this Court under Article 227 of the Constitution of India. For the reasons aforesaid, no relief can be granted in this civil

revision petition, which is accordingly dismissed. However, in the facts and circumstances of the case, there shall be no order as to costs.

Consequently, M.P. Nos.1 and 2 of 2011 are also dismissed.