Guru Granth Saheb Sthan Meerghat ... vs Ved Prakash & Ors on 1 May, 2013

Equivalent citations: AIR 2013 SUPREME COURT 2024, 2013 AIR SCW 2777, AIR 2013 SC (CRIMINAL) 1295, 2013 (3) AIR KANT HCR 89, (2013) 2 ORISSA LR 562, (2013) 3 ICC 697, (2013) 6 SCALE 576, (2013) 2 WLC(SC)CVL 144, (2013) 3 CGLJ 142, (2013) 2 CAL LJ 193, 2013 (7) SCC 622, (2013) 2 KER LT 692, (2013) 120 REVDEC 767, (2013) 3 JCR 71 (SC), (2013) 126 ALLINDCAS 66 (SC), (2013) 4 CIVLJ 604, 2013 (3) SCC (CRI) 615, 2013 (4) KCCR SN 321 (SC), 2013 (99) ALR SOC 11 (SC), (2013) 3 BOM CR 887, 1995 SCC (SUPP) 3 246, (1996) 1 HINDULR 592, (1996) 1 LJR 742, (1996) 2 LANDLR 580, (1996) 2 RRR 584, (1996) 3 ICC 198, 1996 (4) SCC 462, (1996) 5 JT 380 (SC), 1996 ALL CJ 2 1216.2, (1996) MARRILJ 395, 1996 UJ(SC) 2 516, 1997 HRR 264, (2012) 11 SCALE 21, 2012 (13) SCC 269, (2012) 2 RENTLR 435, (2013) 118 REVDEC 326, (2013) 125 ALLINDCAS 4, (2013) 126 ALLINDCAS 66, (2013) 1 ICC 229, (2013) 1 LANDLR 549, (2013) 1 RECCIVR 972, (2013) 99 ALL LR 11, (2013) 99 ALL LR 32

Author: R.M. Lodha

Bench: Sharad Arvind Bobde, R.M. Lodha

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4166 OF 2013
(Arising out of SLP(C) No. 12644 of 2009)

Guru Granth Saheb Sthan Meerghat Vanaras …… Appellant

Vs.

Ved Prakash & Ors. ……Respondents

JUDGMENT

R.M. LODHA, J.

Leave granted.

2. The short question for consideration in this appeal by special leave is whether High Court was justified in staying the proceedings in civil suit till the decision in criminal case.

3. It is not necessary to narrate the facts in detail. Suffice it to say that the appellant filed an FIR (P.S. Case No. 8 of 2003) at Dharampura Police Station against respondent nos. 1 to 4 for commission of the offences under Sections 420, 467, 468 and 120B, IPC alleging that they had executed a false, forged and fabricated will on 02.07.1997 in the name of late Devkinandan Sahay with the intention to grab his property. It was further alleged that based on the fabricated will, these respondents had obtained a mutation order dated 24.11.1999 from the Tehsildar, Ajaygarh. On completion of investigation in the above F.I.R., the challan has been filed against the above respondents and trial against them is going on in the Court of Judicial Magistrate, First Class, Ajaygarh, Panna (M.P.).

4. On 09.02.2004, the appellant brought legal action in representative capacity against the respondents nos. 1 to 4 by way of a civil suit in the Court of District Judge, Panna (M.P.) praying for a decree for declaration of title, perpetual injunction and possession in respect of disputed lands and for annulling the sale deed dated 14.08.2003 and the mutation order dated 24.11.1999. In the suit, reference of will forged by the respondent nos. 1 to 4 has been made. The said suit has been transferred to the Court of Additional District Judge, Panna and bears Civil Suit No. 10A of 2006. The respondent nos. 1 to 4, who are defendants in the suit, have filed their written statement on 19.06.2006. The trial court has framed issues on the basis of the pleadings of the parties on 21.09.2007. On 21.04.2008, the defendants (respondent nos. 1 to 4 herein) filed an application under Section 10 read with Section 151, CPC for staying the proceedings in the civil suit during the pendency of above- referred criminal case.

5. The Additional District Judge, Panna, by his order dated 21.04.2008 dismissed the application for staying the proceedings in the suit.

6. The respondent nos. 1 to 4 herein challenged the order of the Additional District Judge in the High Court in a writ petition under Article 227 of the Constitution of India. The Division Bench of the Madhya Pradesh High Court by the impugned order has set aside the order of the Additional District Judge and, as noted above, has stayed the proceedings in Civil Suit till the decision of criminal case. It is from this order that the present civil appeal, by special leave, has arisen.

7. We have heard Mr. Nagendra Rai, learned senior counsel for the appellant, and Mr. K.G. Bhagat, learned counsel for respondent nos. 1 to 4.

8. A Constitution Bench of this Court in M.S. Sheriff & Anr. v. State of Madras & Ors.[1] has

considered the question of simultaneous prosecution of the criminal proceedings with the civil suit. In paragraphs 14,15 and 16 (Pg. 399) of the Report, this Court stated as follows:

> "14. . . . . It was said that the simultaneous prosecution of these matters will embarrass the accused. . . . . but we can see that the simultaneous prosecution of the present criminal proceedings out of which this appeal arises and the civil suits will embarrass the accused. We have therefore to determine which should be stayed.
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> 15. As between the civil and the criminal proceedings we are of the opinion that the criminal matters should be given precedence. There is some difference of opinion in the High Courts of India on this point. No hard and fast rule can be laid down but we do not consider that the possibility of conflicting decisions in the civil and criminal Courts is a relevant consideration. The law envisages such an eventuality when it expressly refrains from making the decision of one Court binding on the other, or even relevant, except for certain limited purposes, such as sentence or damages. The only relevant consideration here is the likelihood of embarrassment.
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> 16. Another factor which weighs with us is that a civil suit often drags on for years and it is undesirable that a criminal prosecution should wait till everybody concerned has forgotten all about the crime. The public interests demand that criminal justice should be swift and sure; that the guilty should be punished while the events are still fresh in the public mind and that the innocent should be absolved as early as is consistent with a fair and impartial trial. Another reason is that it is undesirable to let things slide till memories have grown too dim to trust. This, however, is not a hard and fast rule. Special considerations obtaining in any particular case might make some other course more expedient and just. For example, the civil case or the other criminal proceeding may be so near its end as to make it inexpedient to stay it in order to give precedence to a prosecution ordered under S. 476. But in this case we are of the view that the civil suits should be stayed till the criminal proceedings have finished."

9. The ratio of the decision in M.S. Sheriff1 is that no hard and fast rule can be laid down as to which of the proceedings – civil or criminal – must be stayed. It was held that possibility of conflicting decisions in the civil and criminal courts cannot be considered as a relevant consideration for stay of the proceedings as law envisaged such an eventuality. Embarrassment was considered to be a relevant aspect and having regard to certain factors, this Court found expedient in M.S. Sheriff1 to stay the civil proceedings. The Court made it very clear that this, however, was not hard and fast rule; special considerations obtaining in any particular case might make some other course more expedient and just. M.S. Sheriff1 does not lay down an invariable rule that simultaneous prosecution of criminal proceedings and civil suit will embarrass the accused or that invariably the proceedings in the civil suit should be stayed until disposal of criminal case.

10. In M/s. Karam Chand Ganga Prasad and Another etc. v. Union of India and Others[2], this Court in paragraph 4 of the Report (Pg. 695) made the following general observations, "it is a well

established principle of law that the decisions of the civil courts are binding on the criminal courts. The converse is not true." This statement has been held to be confined to the facts of that case in a later decision in K.G. Premshanker v. Inspector of Police and Another[3], to which we shall refer to a little later.

11. In V.M. Shah v. State of Maharashtra and Another[4], while dealing with the question whether the conviction under Section 630 of the Companies Act was sustainable, this Court, while noticing the decision in M.S. Sheriff1 in para 11 (pg. 770) of the Report, held as under:

> "11. As seen that the civil court after full-dressed trial recorded the finding that the appellant had not come into possession through the Company but had independent tenancy rights from the principal landlord and, therefore, the decree for eviction was negatived. Until that finding is duly considered by the appellate court after weighing the evidence afresh and if it so warranted reversed, the findings bind the parties. The findings, recorded by the criminal court, stand superseded by the findings recorded by the civil court. Thereby, the findings of the civil court get precedence over the findings recorded by the trial court, in particular, in summary trial for offences like Section 630. The mere pendency of the appeal does not have the effect of suspending the operation of the decree of the trial court and neither the finding of the civil court gets nor the decree becomes inoperative."

12. The statement of law in V.M. Shah4, as quoted above, has been expressly held to be not a good law in K.G. Premshanker3 .

13. In State of Rajasthan v. Kalyan Sundaram Cement Industries Ltd. and Others[5], this Court made the following statement in paragraph 3 (pgs. 87-88):

> "3. It is settled law that pendency of the criminal matters would not be an impediment to proceed with the civil suits. The criminal court would deal with the offence punishable under the Act. On the other hand, the courts rarely stay the criminal cases and only when the compelling circumstances require the exercise of their power. We have never come across stay of any civil suits by the courts so far. The High Court of Rajasthan is only an exception to pass such orders. The High Court proceeded on a wrong premise that the accused would be expected to disclose their defence in the criminal case by asking them to proceed with the trial of the suit. It is not a correct principle of law. Even otherwise, it no longer subsists, since many of them have filed their defences in the civil suit. On principle of law, we hold that the approach adopted by the High Court is not correct. But since the defence has already been filed nothing survives in this matter."

14. We may now refer to a three-Judge Bench decision of this Court in K.G. Premshanker3. The three-Judge Bench took into consideration Sections 40, 41, 42 and 43 of the Evidence Act, 1872 and also the decision of this Court in M.S. Sheriff1 and observed in paragraph 32 of the Report that the decision rendered by the Constitution Bench in M.S. Sheriff case1 would be binding wherein it has

been specifically held that no hard and fast rule can be laid down and that possibility of conflicting decision in civil and criminal courts is not a relevant consideration.

15. Section 40 of the Evidence Act makes it plain that the existence of any judgment, order or decree which by law prevents any Courts from taking cognizance of a suit or holding a trial is a relevant fact when the question is whether such Court ought to take cognizance of such suit, or to hold such trial.

16. Section 41 provides for relevancy of judgments passed in the exercise of probate, matrimonial admiralty or insolvency jurisdiction by the Competent Court. It reads as follows :

> "S. 41. Relevancy of certain judgments in probate, etc., jurisdiction.—A final judgment, order or decree of a competent Court, in the exercise of probate, matrimonial admiralty or insolvency jurisdiction which confers upon or takes away from any person any legal character, or which declares any person to be entitled to any such character, or to be entitled to any specific thing, not as against any specified person but absolutely, is relevant when the existence of any such legal character, or the title of any such person to any such thing, is relevant.
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> Such judgment, order or decree is conclusive proof— that any legal character, which it confers accrued at the time when such judgment, order or decree came into operation;
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> that any legal character, to which it declares any such person to be entitled, accrued to that person at the time when such judgment, order or decree declares it to have accrued to that person;
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> that any legal character which it takes away from any such person ceased at the time from which such judgment, order or decree declared that it had ceased or should cease;
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> and that anything to which it declares any person to be so entitled was the property of that person at the time from which such judgment, order or decree declares that it had been or should be his property."

17. Section 42 deals with relevancy and effect of judgments, orders or decrees, other than those mentioned in Section 41. It reads as under:

> "S.42. Relevancy and effect of judgments, orders or decrees, other than those mentioned in section 41.—Judgments, orders or decrees other than those mentioned in section 41, are relevant if they relate to matters of a public nature relevant to the enquiry; but such judgments, orders or decrees are not conclusive proof of that which they state."

18. Section 43 provides that the judgments, orders or decrees other than those mentioned in Sections 40, 41 and 42 are irrelevant unless the existence of such judgment, order or decree is a fact in issue or is relevant under some other provisions of the Evidence Act.

19. In K.G. Premshanker3, the effect of the above provisions (Sections 40 to 43 of the Evidence Act) has been broadly noted thus: if the criminal case and civil proceedings are for the same cause, judgment of the civil court would be relevant if conditions of any of Sections 40 to 43 are satisfied but it cannot be said that the same would be conclusive except as provided in Section 41. Section 41 provides which judgment would be conclusive proof of what is stated therein. Moreover, the judgment, order or decree passed in previous civil proceedings, if relevant, as provided under Sections 40 and 42 or other provisions of the Evidence Act then in each case the Court has to decide to what extent it is binding or conclusive with regard to the matters decided therein. In each and every case the first question which would require consideration is, whether judgment, order or decree is relevant; if relevant, its effect. This would depend upon the facts of each case.

20 In light of the above legal position, it may be immediately observed that the High Court was not at all justified in staying the proceedings in the civil suit till the decision of criminal case. Firstly, because even if there is possibility of conflicting decisions in the civil and criminal courts, such an eventuality cannot be taken as a relevant consideration. Secondly, in the facts of the present case there is no likelihood of any embarrassment to the defendants (respondent nos. 1 to 4 herein) as they had already filed the written statement in the civil suit and based on the pleadings of the parties the issues have been framed. In this view of the matter, the outcome and/or findings that may be arrived at by the civil court will not at all prejudice the defence(s) of the respondent nos. 1 to 4 in the criminal proceedings.

21. For the above reasons, appeal is allowed. The impugned order dated 24.11.2008 passed by the Division Bench of the Madhya Pradesh High Court is set aside. The proceedings in the civil suit shall now proceed further in accordance with law. The parties shall bear their own costs.

.....J. (R.M. Lodha) .....J. (Sharad Arvind Bobde) NEW DELHI MAY 1, 2013.

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[1] AIR 1954 SC 397
[2] 1970 (3) SCC 694
[3] (2002) 8 SCC 87
[4] (1995) 5 SCC 767
[5] (1996) 3 SCC 87
