

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.6177 OF 2004

Hindustan Petroleum Corporation Ltd.

... Appellant

Versus

Dilbahar Singh

... Respondent

WITH

CIVIL APPEAL NO.2162 OF 2004

CIVIL APPEAL NO.2901 OF 2006

CIVIL APPEAL NO.6954 OF 2005

CIVIL APPEAL NO.7520 OF 2005

CIVIL APPEAL NO.5212 OF 2006

CIVIL APPEAL NO.2859 OF 2006

CIVIL APPEAL NO.3313 OF 2007

CIVIL APPEAL NO.1224 OF 2006

SLP (C) NO.34303 of 2009

CIVIL APPEAL NO.7491 OF 2004

SLP (C) No.11931 of 2011

SLP (C) No.22248 OF 2007

CIVIL APPEAL NO.7066 OF 2005

JUDGMENT

R.M. LODHA, CJI.

This group of eleven appeals and three special leave petitions has been referred to the 5-Judge Bench to resolve the conflict into the two 3-Judge Bench decisions one, *Rukmini*¹ and the other, *Ram Dass*². *Ram Dass*² has followed *Moti Ram*³. At the time of hearing of Civil Appeal No.6177 of 2004, Hindustan Petroleum Corporation Ltd. v. Dilbahar Singh, the 2-Judge Bench, while dealing with the meaning, ambit and scope of the words “legality and propriety” under Section 15(6) of the Haryana Urban (Control of Rent & Eviction) Act, 1973 (for short, ‘the Haryana Rent Control Act’), was confronted with the question whether the High Court (as revisional authority) under Section 15(6) could interfere with the findings of fact of the first appellate Court/first appellate authority. The appellant relied upon the decision of this Court in *Rukmini*¹ in support of its contention that the revisional Court is not entitled to re-appreciate

¹ *Rukmini Amma Saradamma v. Kallyani Sulochana and others*; [(1993) 1 SCC 499]

² *Ram Dass v. Ishwar Chander and others*; [AIR 1988 SC 1422]

³ *Moti Ram v. Suraj Bhan and others*; [AIR 1960 SC 655]

evidence. On the other hand, the respondent pressed into service the decision of this Court in *Ram Dass*² wherein it has been held that the expression "legality and propriety" enables the revisional Court to reappraise the evidence while considering the findings of the first appellate Court. The 2-Judge Bench felt that there was conflict in the two decisions and for its resolution referred the matter to the larger Bench. In the Reference Order (dated August 27, 2009), the 2-Judge Bench observed, thus:

"Learned counsel for the appellant has placed reliance on a three Judge Bench decision of this Court in the case of *Rukmini Amma Saradamma Vs. Kallyani Sulochana And Others* (1993) 1 SCC 499 wherein Section 20 of the Kerala Rent Control Act was in question. It was held in the said decision that though Section 20 of the said Act provided that the revisional court can go into the 'propriety' of the order but it does not entitle the revisional court to re-appreciate evidence. A similar view was taken by a two Judge bench of this Court in the case of *Ubaiba Vs. Damodaran* (1999) 5 SCC, 645.

On the other hand learned counsel for the respondent has relied upon a decision of this Court in the case of *Ram Dass Vs. Ishwar Chander and Others* AIR 1988 SC 1422 which was also a three Judge Bench decision. It has been held in that case that the expression "legality and propriety" enables the High Court in revisional jurisdiction to reappraise the evidence while considering the findings of the first appellate Court. A similar view was taken by another three Judge Bench of this Court in the case of *Moti Ram Vs. Suraj Bhan and others* AIR 1960 SC 655.

From the above it is clear that there are conflicting views of coordinate three Judge Benches of this Court as to the meaning, ambit and scope of the expression 'legality and propriety' and whether in revisional jurisdiction the High Court can re-appreciate the evidence. Hence, we are of the view that the matter needs to be considered by a

larger bench since this question arises in a large number of cases as similar provisions conferring power of revision exists in various rent control and other legislations, e.g. Section 397 of the Code of Criminal Procedure. Accordingly, we direct that the papers be placed before Hon'ble The Chief Justice for constituting a larger Bench.”

2. There are other appeals/SLPs in this group of matters, some of which arise from the Kerala Buildings (Lease and Rent Control) Act, 1965 (for short, 'the Kerala Rent Control Act') and the few appeals/SLPs arise from the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 (for short, 'the Tamil Nadu Rent Control Act'). These appeals/SLPs following the Reference Order in Hindustan Petroleum Corporation have also been referred to the 5-Judge Bench. This is how these matters have come up before us.

3. It is appropriate to first notice the statutory provisions pertaining to revisional jurisdiction of the High Court under the above three Rent Control Acts. These provisions are not similar to Section 115 of the Code of Civil Procedure which confers revisional jurisdiction upon the High Court in the matters arising from the Courts governed by the Code.

4. Section 15 of the Haryana Rent Control Act provides for appellate and revisional authorities. This provision in the Haryana Rent Control Act reads as under:

“15. Appellate and revisional authorities.—(1) The State Government may, by a general or special order, by notification, confer on such officers and authorities as it may think fit, the powers of appellate authorities for the purposes of this Act, in such

area or in such classes of cases as may be specified in the order.

(2) Any person aggrieved by an order passed by the Controller may, within thirty days from the date of such order or such longer period as the appellate authority may allow for reasons to be recorded in writing, prefer an appeal in writing to the appellate authority having jurisdiction. In computing the period of thirty days the time taken to obtain a certified copy of the order appealed against shall be excluded.

(3) On such appeal being preferred, the appellate authority may order stay of further proceedings in the matter pending decision on the appeal.

(4) The appellate authority shall decide the appeal after sending for the records of the case from the Controller and after giving the parties an opportunity of being heard and, if necessary, after making such further inquiry as it thinks fit either personally or through the Controller.

(5) The decisions of the appellate authority and subject to such decision, the order of the Controller shall be final and shall not be liable to be called in question in any court of law except as provided in sub-section (6) of this section.

(6) The High Court as revisional authority, may at any time, on its own motion or on the application of any aggrieved party, made within a period of ninety days, call for and examine the record relating to any order passed or proceedings taken under this Act for the purpose of satisfying itself as to the legality or propriety of such order or proceedings and may pass such order in relation thereto as it may deem fit. In computing the period of ninety days the time taken to obtain a certified copy of the order shall be excluded.”

5. In the Tamil Nadu Rent Control Act, Section 23 and Section 25 provide for appeal and revision, respectively. Since we are concerned with the scope of revisional power, it is not necessary to reproduce the appellate provision. Section 25, which deals with revisional power, reads as under:

“25. Revision.—(1) The High Court may, on the application of any person aggrieved by an order of the Appellate Authority, call for and examine the record of the Appellate Authority, to satisfy itself as to the regularity of such proceeding or the correctness, legality or propriety of any decision or order passed therein and if, in any case, it appears to the High Court that any such decision or order should be modified, annulled, reversed or remitted for reconsideration, it may pass orders accordingly.

(2) Every application to the High Court for the exercise of its power under sub-section (1) shall be preferred within one month from the date on which the order or proceeding to which the application relates is communicated to the applicant:

Provided that the High Court may, in its discretion, allow further time not exceeding one month for the filing of any such application, if it is satisfied that the applicant had sufficient cause for not preferring the application within the time specified in this sub-section.”

6. The provision for appeal is contained in the Kerala Rent Control Act in Section 18 while Section 20 of that Act deals with the revisional jurisdiction. Section 20 of the Kerala Rent Control Act reads as under:

“20. (1) In cases where the appellate authority empowered under section 18 is a Subordinate judge, the District Court, and in other cases the High Court, may, at any time, on the application of any aggrieved party, call for and examine the records relating to any order passed or proceedings taken under this Act by such authority for the purpose of satisfying itself as to the legality, regularity or propriety of such order or proceedings, and may pass such order in reference thereto as it thinks fit.

(2) The costs of and incident to all proceedings before the High Court or District Court under sub-section (1) shall

be in its discretion.“

7. A careful reading of the text of the above three provisions will show that under Section 15(6) of the Haryana Rent Control Act, the High Court as revisional authority, may *suo motu* or on the application of an aggrieved party, call for and examine the record relating to any order passed or proceedings taken under the Act for the purpose of satisfying itself as to the legality or propriety of such order or proceedings and may pass such order as it may deem fit. The Tamil Nadu Rent Control Act provides that the High Court on the application of an aggrieved person may call for and examine the record of the appellate authority to satisfy itself as to the regularity of such proceedings or the correctness, legality or propriety of any decision or order passed therein. The High Court in exercise of its revisional power may modify, annul or reverse the order or decision impugned before it or remit the matter for re-consideration. In the Tamil Nadu Rent Control Act, the High Court has no power to act *suo motu*. The Kerala Rent Control Act provides that the High Court on the application of an aggrieved party may call for and examine the record relating to any order passed or proceedings taken under the Act for the purpose of satisfying itself as to the legality, regularity or propriety of such order or proceedings and pass any order that it deems fit. Like the Tamil Nadu Rent Control Act, the Kerala Rent Control Act also does not empower the High Court to act *suo motu*. Though, there is some difference

in the language of the revisional provision in the above three statutes but, in our opinion, the revisional power of the High Court under the above Rent Control Acts is substantially similar and not significantly different.

8. Before we embark upon an inquiry to find out the ambit and scope of the revisional power of the High Court under these Rent Control Acts, we may quickly observe that in this reference, we have to really determine the extent, scope, ambit and meaning of the terms “legality or propriety”, “regularity, correctness, legality or propriety” and “legality, regularity or propriety”. Obviously, this will determine the extent of the revisional jurisdiction of the High Court under the respective Rent Control statutes and will also include the consideration of the question whether the High Court in exercise of its revisional jurisdiction can re-appreciate the evidence in order to find out the correctness, legality or propriety of the impugned order or decision.

9. The scope of revisional jurisdiction under various Rent Control Acts has fallen for consideration in many cases before this Court. One of the earlier decisions in the long line of such cases is *Moti Ram*³. The 3-Judge Bench of this Court in *Moti Ram*³ had an occasion to consider the extent of revisional power of the High Court under Section 15(5) of the East Punjab Urban Rent Restriction Act, 1949 (3 of 1949) which reads: “... *The High Court may, at any time, on the application of any aggrieved party or on its own motion, call for and examine the records relating to any order*

passed or proceedings taken under this Act for the purpose of satisfying itself as to the legality or propriety of such order or proceedings and may pass such order in relation thereto as it may deem fit.” Having regard to this provision, the Court noted the revisional power of the High Court in the following words:

“...the revisional power conferred upon the High Court under Section 15(5) is wider than that conferred by Section 115 of the Code of Civil Procedure. Under Section 15(5) the High Court has jurisdiction to examine the legality or propriety of the order under revision and that would clearly justify the examination of the propriety or the legality of the finding made by the authorities...”

10. Before we refer to the other cases of this Court, we feel that the weighty observations made by the 2-Judge Bench in *Dattonpant*⁴ may be noted. The Court while dealing with findings of fact recorded by the appellate court under the Mysore Rent Control Act, 1961 referred to Section 50 of that Act which conferred upon the High Court revisional power. The Court observed:

“It is true that the power conferred on the High Court under Section 50 is not as narrow as the revisional power of the High Court under Section 115 of the Code of Civil Procedure. But at the same time it is not wide enough to make the High Court a second court of first appeal.”

(emphasis supplied by us)

11. In *Sri Raja Lakshmi Dyeing Works*⁵, the 2-Judge Bench of this

⁴ *Dattonpant Gopalvarao Devakate v. Vithalrao Maruthirao Janagaval*; [(1975) 2 SCC 246]

⁵ *M/s. Sri Raja Lakshmi Dyeing Works and others v. Rangaswamy Chettiar*; [(1980) 4 SCC 259]

Court while considering the scope of Section 25 of Tamil Nadu Rent Control Act followed *Dattonpant*⁴ and while doing so, the Court also articulated the distinction between “appellate jurisdiction” and “revisional jurisdiction”. In paragraph 2 (page 261 of the Report), the Court stated as follows:

“2. ‘Appeal’ and ‘revision’ are expressions of common usage in Indian statute and the distinction between ‘appellate jurisdiction’ and ‘revisional jurisdiction’ is well known though not well defined. Ordinarily, appellate jurisdiction involves a rehearing, as it were, on law as well as fact and is invoked by an aggrieved person. Such jurisdiction may, however, be limited in some way as, for instance has been done in the case of second appeal under the Code of Civil Procedure, and under some Rent Acts in some States. Ordinarily, again, revisional jurisdiction is analogous to a power of superintendence and may sometimes be exercised even without its being invoked by a party. The extent of revisional jurisdiction is defined by the statute conferring such jurisdiction. The conferment of revisional jurisdiction is generally for the purpose of keeping tribunals subordinate to the revising Tribunal within the bounds of their authority to make them act according to law, according to the procedure established by law and according to well defined principles of justice. Revisional jurisdiction as ordinarily understood with reference to our statutes is always included in appellate jurisdiction but not vice versa. These are general observations. The question of the extent of appellate or revisional jurisdiction has to be considered in each case with reference to the language employed by the statute.”

While dealing with revisional power under Section 25 of the Tamil Nadu Rent Control Act, the Court said in paragraph 3 (page 262 of the Report) as under:

“The language of Section 25 is indeed very wide. But we must attach some significance to the circumstance that both the expressions ‘appeal’ and ‘revision’ are employed in

the statute. Quite obviously, the expression 'revision' is meant to convey the idea of a much narrower jurisdiction than that conveyed by the expression 'appeal'. In fact it has to be noticed that under Section 25 the High Court calls for and examines the record of the appellate authority in order to satisfy itself. The dominant idea conveyed by the incorporation of the words 'to satisfy itself' under Section 25 appears to be that the power conferred on the High Court under Section 25 is essentially a power of superintendence. Therefore, despite the wide language employed in Section 25, the High Court quite obviously should not interfere with findings of fact merely because it does not agree with the finding of the subordinate authority. The power conferred on the High Court under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act may not be as narrow as the revisional power of the High Court under Section 115 of the Code of Civil Procedure but in the words of Untwalia, J., in *Dattonpant Gopalvarao Devakate v. Vithalrao Maruthirao Janagaval*; "it is not wide enough to make the High Court a second Court of first appeal".

Pertinently, in *Sri Raja Lakshmi Dyeing Works*⁵, the Court said in unequivocal words that concurrent findings, based on evidence, cannot be touched upon by the High Court exercising jurisdiction under Section 25 of the Tamil Nadu Rent Control Act.

12. In *Krishnamachari*⁶, the Court followed *Sri Raja Lakshmi Dyeing Works*⁵ while considering the scope of revisional power under Section 25 of the Tamil Nadu Rent Control Act.

13. A 3-Judge Bench of this Court in *Ram Dass*² was concerned with the revisional power of the High Court under Section 15(5) of the East Punjab Urban Rent Restriction Act, 1949. *Inter alia*, the Court noted the earlier judgments of this Court in *Dattonpant*⁴ and *Sri Raja Lakshmi Dyeing*

⁶ P.R. Krishnamachari v. Lalitha Ammal; [1987 (Supp) SCC 250]

*Works*⁵ and observed as under:

“On the first contention that the revisional powers do not extend to interference with and upsetting of findings of fact, it needs to be observed that, subject to the well known limitations inherent in all revisional jurisdictions, the matter essentially turns on the language of the statute investing the jurisdiction. The decisions relied upon by Shri Harbans Lal, deal, in the first case, with the limitations on the scope of interference with findings of fact in second appeals and in the second, with the limitation on the revisional powers where the words in the statute limit it to the examination whether or not the order under revision is “according to law”. The scope of the revisional powers of the High Court, where the High Court is required to be satisfied that the decision is “according to law” is considered by Beaumont, C.J. in *Bell & Co. Ltd. v. Waman Hemraj* (AIR 1938 Bom 223) a case referred to with approval by this Court in *Hari Shankar v. Girdhari Lal Chowdhury* (AIR 1963 SC 698)

But here, Section 15(5) of the Act enables the High Court to satisfy itself as to the “legality and propriety” of the order under revision, which is, quite obviously, a much wider jurisdiction. That jurisdiction enables the court of revision, in appropriate cases, to examine the correctness of the findings of facts also, though the revisional court is not “a second court of first appeal”

(emphasis supplied by us)

14. In *Rukmini*⁷, the scope of revisional power under Section 20 of the Kerala Rent Control Act fell for consideration before a 3-Judge Bench. The Bench considered the provision of Section 20 of that Act, vis-à-vis, Section 115 of the Code of Civil Procedure and held as under:

“As far as the present Act is concerned Section 20 contains the word “propriety” also. As to the meaning of the word “propriety” in *Raman and Raman Ltd. v. State of Madras* (1956 SCR 256) at page 264 it was held thus:

“The word ‘propriety’ has nowhere been defined in the Act and is capable of a variety of meanings. In the Oxford English Dictionary (Vol. VIII), it has been stated to mean ‘fitness; appropriateness; aptitude; suitability; appropriateness to the circumstances or conditions; conformity with requirements, rule or principle; rightness, correctness, justness, accuracy’.”

Therefore, the question would be whether in the context of this provision the High Court was right in re-appreciating the evidence and coming to a different conclusion? In the impugned judgment in paragraph 7 the High Court observed:

“Under Section 20 of the Act though re-appreciation of the evidence as such is not called for, the pleadings and evidence have to be examined to satisfy the legality, regularity of the order of the lower authorities.”

We are afraid this approach of the High Court is wrong. Even the wider language of Section 20 of the Act cannot enable the High Court to act as a first or a second court of appeal. Otherwise the distinction between appellate and revisional jurisdiction will get obliterated. Hence, the High Court was not right in re-appreciating the entire evidence both oral or documentary in the light of the Commissioner’s report (Exts. C-1 and C-2 .mahazar). In our considered view, the High Court had travelled far beyond the revisional jurisdiction. Even by the presence of the word “propriety” it cannot mean that there could be a re-appreciation of evidence. Of course, the revisional court can come to a different conclusion but not on a re-appreciation of evidence; on the contrary, by confining itself to legality, regularity and propriety of the order impugned before it. Therefore, we are unable to agree with the reasoning of the High Court with reference to the exercise of revisional jurisdiction.”

While holding as above, the 3-Judge Bench also referred to the decisions of this Court in *H.V. Mathai*⁷ and *Rai Chand Jain*⁸. In *H.V. Mathai*⁷, this

⁷ H.V. Mathai v. Subordinate Judge, Kottayam; [(1969) 2 SCC 194]

⁸ Rai Chand Jain v. Miss Chandra Kanta Khosla; [(1991) 1 SCC 422]

Court observed that the words of Section 20 are much wider than those in Section 115 of the Code of Civil Procedure. It was also observed that on the words of Section 20, it could not be held that the revision was limited to a mere question of jurisdiction. In *Rai Chand Jain*⁸, relying upon *Ram Dass*², the Court observed:

“... The High Court in exercising its power under Section 15(5) of the said Act is within its jurisdiction to reverse the findings of fact as the same were improper and also illegal. It is appropriate to refer in this connection to the decision in the case of *Ram Dass v. Ishwar Chander* where it has been held that Section 15(5) of the Act enables the High Court to satisfy itself as to the “legality or propriety” of the order under revision, which is, quite obviously, a much wider jurisdiction. That jurisdiction enables the court of revision, in appropriate cases, to examine the correctness of the findings of facts also, though the revisional court is not ‘a second court of first appeal...”

15. In *Sankaranarayanan*⁹, the Court had an occasion to consider the scope of powers of revisional Court under Section 25 of the Tamil Nadu Rent Control Act. The 2-Judge Bench which heard the matter observed that it was improper for the High Court to consider the revision petition under Section 25 as if it were a second appeal. The Court firmly stated that the findings of the first appellate Court could not be reversed upon a reassessment of the evidence.

16. In *Shiv Sarup Gupta*¹⁰, this Court with reference to the

⁹ *Dr. D. Sankaranarayanan v. Punjab National Bank*; [1995 Supp. (4) SCC 675]

¹⁰ *Shiv Sarup Gupta v. Dr. Mahesh Chand Gupta*; [(1999) 6 SCC 222]

revisional jurisdiction of the High Court under Section 25-B (8) of the Delhi Rent Control Act, 1958, though reiterated that the High Court cannot enter into appreciation or re-appreciation of evidence merely because it is inclined to take a different view of the facts as if it were a Court of facts, but also held that the High Court is obliged to test the order of the Rent Controller on the touchstone of “whether it is according to law” and, for that limited purpose, may enter into reappraisal of evidence, i.e., for the purpose of ascertaining whether the conclusion arrived at by the Rent Controller is wholly unreasonable or is one that no reasonable person acting with objectivity could have reached on the material available. The Court observed that ignoring the weight of evidence, proceeding on a wrong premise of law or deriving such conclusion from the established facts as betray a lack of reason and/or objectivity would render the finding of the Controller “not according to law” calling for an interference under the proviso to sub-section (8) of Section 25-B of the Delhi Rent Control Act.

17. Again in *Ram Narain Arora*¹¹, a 2-Judge Bench with reference to revisional power under Section 25-B of the Delhi Rent Control Act, 1958 observed as follows:

“It is no doubt true that the scope of a revision petition under Section 25-B(8) proviso of the Delhi Rent Control Act is a very limited one, but even so in examining the legality or propriety of the proceedings before the Rent Controller, the High Court could examine the facts available in order to find

¹¹ *Ram Narain Arora v. Asha Rani and Ors.*; [(1999) 1 SCC 141]

out whether he had correctly or on a firm legal basis approached the matters on record to decide the case. Pure findings of fact may not be open to be interfered with, but (sic if) in a given case, the finding of fact is given on a wrong premise of law, certainly it would be open to the revisional court to interfere with such a matter. In this case, the Rent Controller proceeded to analyse the matter that non-disclosure of a particular information was fatal and, therefore, dismissed the claim made by the landlord. It is in these circumstances that it became necessary for the High Court to re-examine the matter and then decide the entire question. We do not think that any of the decisions referred to by the learned counsel decides the question of the same nature with which we are concerned. Therefore, detailed reference to them is not required.”

18. The scope of the High Court's revisional power under Section 50(1) of the Karnataka Rent Control Act, 1961 came to be considered by a 2-Judge Bench of this Court in *M.S. Zahed*¹². The provision (Section 50) under consideration reads, “*The High Court may, at any time call for and examine any order passed or proceeding taken by (the Court of Small Causes or the Court of the Civil Judge) under this Act or any order passed by the Controller under Sections 14, 15, 16 or 17 for the purpose of satisfying itself as to the legality or correctness of such order or proceeding and may pass such order in reference thereto as it thinks fit.*” The Court, while observing that revisional power cannot be equated with the power of reconsideration of all questions of fact as a Court of first appeal, held that still the nature of the revisional jurisdiction of the High Court under Section 50 of the Act will have to be considered in the light of the express provisions of the statute concerning such power. On the express language

¹² *M.S. Zahed v. K. Raghavan*; [(1999) 1 SCC 439]

of Section 50(1) of the Act, the Court observed that it cannot be said that the High Court has no jurisdiction to go into the question of correctness of findings of fact reached by the Court of Small Causes on relevant evidence. The Court considered a couple of decisions of this Court, (1) *Central Tobacco Company*¹³ and (2) *Bhoolchand*¹⁴ and ultimately concluded that the High Court in revision under Section 50 of the Act was entitled to re-appreciate the evidence with a view to finding out whether the order of the Court of Small Causes was legal or correct.

19. In *Ubaiba*¹⁵, a 2-Judge Bench of this Court, while dealing with revisional jurisdiction of the High Court under Section 20 of the Kerala Rent Control Act, considered the meaning of the expression 'propriety'. The Court held that in re-appreciating the evidence, the High Court had exceeded its revisional jurisdiction. This is what the 2-Judge Bench said:

“Mr. K. Sukumaran, the learned Senior Counsel appearing for the appellant contended that however wide the jurisdiction of the revisional court under the Act in question may be, but it cannot have jurisdiction to reappreciate the evidence and substitute its own finding upsetting the finding arrived at by the appellate authority and therefore the impugned order of the High Court is unsustainable in law. In support of this contention reliance has been placed on a decision of this Court in the case of *Rukmini Amma Saradamma v. Kallyani Sulochana* (1993) 1 SCC 499 whereunder the selfsame provision of the Kerala Act was under consideration. This Court after noticing the word “propriety” used in Section 20 came to the conclusion that the approach of the High Court was totally wrong and even

¹³ *Central Tobacco Company v. Chandra Prakash*; [1969 UJ 432]

¹⁴ *Bhoolchand and Anr. v. Kay Pee Cee Investments and Anr.*; [(1991) 1 SCC 343]

¹⁵ *Ubaiba v. Damodaran*; [(1999) 5 SCC 645]

the wider language of Section 20 of the Act cannot enable the High Court to act as a first or a second court of appeal. Otherwise the distinction between appellate and revisional jurisdiction will get obliterated. The Court also further observed “even by the presence of the word ‘propriety’ it cannot mean that there could be any reappraisal of evidence”. The learned counsel for the respondent on the other hand contended that the aforesaid decision will have no application to the case in hand where the dispute involved relates to a jurisdictional fact and according to the learned counsel where the dispute is in relation to a jurisdictional fact there should not be any fetter on the power of the revisional court even to reappraisal the evidence and come to its own conclusion. On being asked to support the aforesaid proposition no authority could be placed though on first principle learned counsel for the respondent argued as aforesaid. Having examined the rival submission and having gone through the decision of this Court referred to earlier we are of the considered opinion that though the revisional power under the Rent Act may be wider than Section 115 of the Code of Civil Procedure it cannot be equated even with the second appellate power conferred on the civil court under the Code of Civil Procedure. Notwithstanding the use of the expression “propriety” in Section 20, the revisional court therefore will not be entitled to reappraisal the evidence and substitute its own conclusion in place of the conclusion of the appellate authority. On examining the impugned judgment of the High Court in the light of the aforesaid ratio of this Court it is crystal clear that the High Court exceeded its jurisdiction by reappraisal the evidence and in coming to the conclusion that the relationship of landlord-tenant did not exist. In the circumstances, the impugned revisional order of the High Court is wholly unsustainable and we set aside the same and the order of the appellate authority is affirmed.”

20. The scope of power of revision under Section 25 of the Tamil Nadu Rent Control Act also fell for consideration before a 2-Judge Bench of this Court in *T. Sivasubramaniam*¹⁶. The Court in paragraph 5 (page 279 of the Report) held as follows:

¹⁶ *T. Sivasubramaniam and Ors. v. Kasinath Pujari and Ors.*; [(1999) 7 SCC 275]

“5. So far as the second submission is concerned, the language employed in Section 25 of the Act, which confers revisional jurisdiction on the High Court, is very wide. Under Section 25 of the Act, the High Court can call for and examine the record of the appellate authority in order to satisfy itself as to regularity of such proceedings or the correctness, legality or propriety of any decision or orders passed therein. The words “to satisfy itself” employed in Section 25 of the Act no doubt is a power of superintendence, and the High Court is not required to interfere with the finding of fact merely because the High Court is not in agreement with the findings of the courts below. It is also true that the power exercisable by the High Court under Section 25 of the Act is not an appellate power to reappraise or reassess the evidence for coming to a different finding contrary to the finding recorded by the courts below. But where a finding arrived at by the courts below is based on no evidence, the High Court would be justified in interfering with such a finding recorded by the courts below. In the present case what we find is that neither has the landlord set out his need or requirement for the premises for his occupation in his petition nor has he led any evidence to show that his need is bona fide. In the absence of such evidence, the Rent Controller and the first appellate authority acted contrary to law in allowing the petition of the landlord by directing the eviction of the tenants. In such circumstances, the High Court was fully justified in interfering with the findings of the courts below. We, therefore, reject the second submission of learned counsel.”

21. In *Ramdoss*¹⁷, this Court again had an occasion to consider the scope of Section 25 of the Tamil Nadu Rent Control Act. Relying upon *Sankaranarayanan*⁹, the Court held that the revisional power of the High Court under Section 25 of the Act not being an appellate power, it is impermissible for the High Court to reassess the evidence in a revision petition filed under Section 25 of the Act. The Court did not accept the argument that in exercise of its revisional jurisdiction, the High Court can

¹⁷ *Ramdoss v. K. Thangavelu*; [(2000) 2 SCC 135]

interfere with incorrect finding of fact recorded by the Courts below.

22. In *Shaw Wallace*¹⁸, a 2-Judge Bench of this Court relied upon *M.S. Zahed*¹² decision of this Court and held in paragraph 13 of the Report as follows:

“13. On a plain reading of Section 25 of the Act, it is clear that the revisional jurisdiction vested in the High Court under that section is wider than Section 115 of the Code of Civil Procedure. The High Court is entitled to satisfy itself as to the regularity of the proceeding, of the correctness, legality or propriety of any decision or order passed therein and if, on examination, it appears to the High Court that any such decision or order should be modified, annulled, reversed or remitted for reconsideration, it may pass such orders accordingly.”

23. The scope of revisional power under Section 20 of the Kerala Rent Control Act fell for consideration in *V.M. Mohan*¹⁹. The Court while allowing the appeal set aside the order of the High Court as it found that the High Court had re-appreciated the evidence to come to the conclusion different from the trial Court as well as the appellate Court. The Court observed that as the revision application was concluded by concurrent finding of fact recorded by the original authority as well as the appellate authority, no interference by the High Court was called for.

24. In *Olympic Industries*²⁰, this Court, while dealing with revisional jurisdiction of the High Court under Section 25 of the Tamil Nadu Rent Control Act, observed that the High Court could interfere with

¹⁸ *Shaw Wallace & Co. Ltd. v. Govindas Purushothamdas and Anr.*; [(2001) 3 SCC 445]

¹⁹ *V.M. Mohan v. Prabha Rajan Dwarka and Ors.*; [(2006) 9 SCC 606]

²⁰ *Olympic Industries v. Mulla Hussainy Bhai Mulla Akberally and Ors.*; [(2009) 15 SCC 528]

concurrent orders of the tribunals in revisional jurisdiction only if their findings are perverse or arbitrary and irregular or improper.

25. Before we consider the matter further to find out the scope and extent of revisional jurisdiction under the above three Rent Control Acts, a quick observation about the 'appellate jurisdiction' and 'revisional jurisdiction' is necessary. Conceptually, revisional jurisdiction is a part of appellate jurisdiction but it is not vice-versa. Both, appellate jurisdiction and revisional jurisdiction are creatures of statutes. No party to the proceeding has an inherent right of appeal or revision. An appeal is continuation of suit or original proceeding, as the case may be. The power of the appellate court is co-extensive with that of the trial court. Ordinarily, appellate jurisdiction involves re-hearing on facts and law but such jurisdiction may be limited by the statute itself that provides for appellate jurisdiction. On the other hand, revisional jurisdiction, though, is a part of appellate jurisdiction but ordinarily it cannot be equated with that of a full-fledged appeal. In other words, revision is not continuation of suit or of original proceeding. When the aid of revisional court is invoked on the revisional side, it can interfere within the permissible parameters provided in the statute. It goes without saying that if a revision is provided against an order passed by the tribunal/appellate authority, the decision of the revisional court is the operative decision in law. In our view, as regards the extent of appellate or revisional jurisdiction, much would, however, depend

on the language employed by the statute conferring appellate jurisdiction and revisional jurisdiction.

26. With the above general observations, we shall now endeavour to determine the extent, scope, ambit and meaning of the terms “legality or propriety”, “regularity, correctness, legality or propriety” and “legality, regularity or propriety” which are used in three Rent Control Acts under consideration.

27. The ordinary meaning of the word ‘legality’ is lawfulness. It refers to strict adherence to law, prescription, or doctrine; the quality of being legal.

28. The term ‘propriety’ means fitness; appropriateness, aptitude; suitability; appropriateness to the circumstances or condition conformity with requirement; rules or principle, rightness, correctness, justness, accuracy.

29. The terms ‘correctness’ and ‘propriety’ ordinarily convey the same meaning, that is, something which is legal and proper. In its ordinary meaning and substance, ‘correctness’ is compounded of ‘legality’ and ‘propriety’ and that which is legal and proper is ‘correct’.

30. The expression “regularity” with reference to an order ordinarily relates to the procedure being followed in accord with the principles of natural justice and fair play.

31. We have already noted in the earlier part of the judgment that although there is some difference in the language employed by the three Rent Control Acts under consideration which provide for revisional jurisdiction but, in our view, the revisional power of the High Court under these Acts is substantially similar and broadly such power has the same scope save and except the power to invoke revisional jurisdiction *suo motu* unless so provided expressly. None of these statutes confers on revisional authority the power as wide as that of appellate court or appellate authority despite such power being wider than that provided in Section 115 of the Code of Civil Procedure. The provision under consideration does not permit the High Court to invoke the revisional jurisdiction as the cloak of an appeal in disguise. Revision does not lie under these provisions to bring the orders of the Trial Court/Rent Controller and Appellate Court/Appellate Authority for re-hearing of the issues raised in the original proceedings.

32. We are in full agreement with the view expressed in *Sri Raja Lakshmi Dyeing Works*⁵ that where both expressions “appeal” and “revision” are employed in a statute, obviously, the expression “revision” is meant to convey the idea of a much narrower jurisdiction than that conveyed by the expression “appeal”. The use of two expressions “appeal” and “revision” when used in one statute conferring appellate power and revisional power, we think, is not without purpose and significance. Ordinarily, appellate jurisdiction involves a re-hearing while it

is not so in the case of revisional jurisdiction when the same statute provides the remedy by way of an 'appeal' and so also of a 'revision'. If that were so, the revisional power would become co-extensive with that of the trial Court or the subordinate Tribunal which is never the case. The classic statement in *Dattonpant*⁴ that revisional power under the Rent Control Act may not be as narrow as the revisional power under Section 115 of the Code but, at the same time, it is not wide enough to make the High Court a second Court of first appeal, commends to us and we approve the same. We are of the view that in the garb of revisional jurisdiction under the above three Rent Control Statutes, the High Court is not conferred a status of second Court of first appeal and the High Court should not enlarge the scope of revisional jurisdiction to that extent.

33. Insofar as the 3-Judge Bench decision of this Court in *Ram Dass*² is concerned, it rightly observes that revisional power is subject to well-known limitations inherent in all revisional jurisdictions and the matter essentially turns on the language of the statute investing the jurisdiction. We do not think that there can ever be objection to the above statement. The controversy centers round the following observation in *Ram Dass*², "*...that jurisdiction enables the Court of revision, in appropriate cases, to examine the correctness of the findings of facts also...*". It is suggested that by observing so, the 3-Judge Bench in *Ram Dass*² has enabled the High Court to interfere with the findings of fact by re-appreciating the

evidence. We do not think that the 3-Judge Bench has gone to that extent in *Ram Dass*². The observation in *Ram Dass*² that as the expression used conferring revisional jurisdiction is “legality and propriety”, the High Court has wider jurisdiction obviously means that the power of revision vested in the High Court in the statute is wider than the power conferred on it under Section 115 of the Code of Civil Procedure; it is not confined to the jurisdictional error alone. However, in dealing with the findings of fact, the examination of findings of fact by the High Court is limited to satisfy itself that the decision is “according to law”. This is expressly stated in *Ram Dass*². Whether or not a finding of fact recorded by the subordinate court/tribunal is according to law, is required to be seen on the touchstone whether such finding of fact is based on some legal evidence or it suffers from any illegality like misreading of the evidence or overlooking and ignoring the material evidence altogether or suffers from perversity or any such illegality or such finding has resulted in gross miscarriage of justice. *Ram Dass*² does not lay down as a proposition of law that the revisional power of the High Court under the Rent Control Act is as wide as that of the Appellate Court or the Appellate Authority or such power is co-extensive with that of the Appellate Authority or that the concluded finding of fact recorded by the original Authority or the Appellate Authority can be interfered with by the High Court by re-appreciating evidence because revisional court/authority is not in agreement with the finding of fact

recorded by the Court/Authority below. *Ram Dass*² does not exposit that the revisional power conferred upon the High Court is as wide as an appellate power to re-appraise or re-assess the evidence for coming to a different finding contrary to the finding recorded by the Court/Authority below. Rather, it emphasises that while examining the correctness of findings of fact, the revisional Court is not the second Court of first appeal. *Ram Dass*² does not cross the limits of revisional court as explained in *Dattonpant*⁴.

34. *Rai Chand Jain*⁸ that follows *Ram Dass*² also does not lay down that the High Court in exercise of its power under the Rent Control Act may reverse the findings of fact merely because on re-appreciation of the evidence it has a different view on the findings of fact. The observations made by this Court in *Rai Chand Jain*⁸ must also be read in the context we have explained *Ram Dass*².

35. In *Shiv Sarup Gupta*¹⁰, the observations of this Court with reference to revisional jurisdiction of the High Court under the Delhi Rent Control Act that the High Court, on the touchstone of “whether it is according to law” and for that limited purpose, may enter into reappraisal of evidence must be understood in the context of its observations made preceding such observation that the High Court cannot enter into appreciation or re-appreciation of evidence merely because it is inclined to

take a different view of the facts as if it were a Court of facts and the observations following such observation that the evidence is examined by the High Court to find out whether Court/Authority below has ignored the evidence or proceeded on a wrong premise of law or derived such conclusion from the established facts which betray lack of reasons and/or objectivity which renders the finding not according to law. *Shiv Sarup Gupta*¹⁰ also does not lay down the proposition of law that in its revisional jurisdiction under the Rent Control Act, the High Court can rehear on facts or re-appreciate the evidence to come to the conclusion different from that of the trial Court or the appellate Court because it has a different view on appreciation of evidence. *Shiv Sarup Gupta*¹⁰ must also be understood in the context we have explained *Ram Dass*².

36. The observations in *Ram Narain Arora*¹¹ that in examining the 'legality' or 'propriety' of the proceedings before the Rent Controller, the High Court could examine the facts available must be understood for the purpose stated therein, namely, in order to find out that the finding of facts are based on firm legal basis and are not given on a wrong premise of law. *Ram Narain Arora*¹¹ also lays down that pure findings of fact are not for interference in revisional jurisdiction.

37. The statement in *M.S. Zahed*¹² that under Section 50 of the Karnataka Rent Control Act, the High Court is entitled to re-appreciate the

evidence with a view to find out whether the order of Small Causes Court is legal and correct must be understood in light of the observations made therein, namely, that revisional power cannot be equated with the power of re-consideration of all questions of fact as a Court of first appeal.

38. *Shaw Wallace*¹⁸ has relied upon *M.S. Zahed*¹² and observed that the High Court is entitled to satisfy itself as to the regularity of the proceeding, of the correctness, legality or propriety of any decision or order passed therein and if, on examination, it appears to the High Court that any such decision or order should be modified, annulled, reversed or remitted for reconsideration, it may pass such order accordingly. In *Shaw Wallace*¹⁸, this Court does not lay down that the High Court can re-appreciate the evidence to come to conclusion different from the court/authority below as the appellate Court.

39. *Rukmini*¹ holds, and in our view, rightly that even the wider language of Section 20 of the Kerala Rent Control Act does not enable the High Court to act as a first or a second court of appeal. We are in full agreement with the view of the 3-Judge Bench in *Rukmini*¹ that the word “propriety” does not confer power upon the High Court to re-appreciate evidence to come to a different conclusion but its consideration of evidence is confined to find out legality, regularity and propriety of the order impugned before it. We approve the view of this Court in *Rukmini*¹.

40. The observation in *Sankaranarayanan*⁹ that the revisional Court under Section 25 of the Tamil Nadu Rent Control Act cannot reverse the findings of the first appellate Court upon a reassessment of evidence is in line with *Rukmini*¹ and we approve the same.

41. Similarly, the view in *Ubaiba*¹⁵, which has followed *Rukmini*¹ that, under Section 20 of the Kerala Rent Control Act, the revisional court will not be entitled to re-appreciate the evidence and substitute its own conclusion in place of the conclusion of the Appellate Authority is the correct view and gets our nod.

42. In *T. Sivasubramaniam*¹⁶ this Court has held that under Section 25 of the Tamil Nadu Rent Control Act, the High Court does not enjoy an appellate power to reappraise or reassess the evidence for coming to a different finding contrary to the finding recorded by the courts below. This view is the correct view and we approve the same.

43. The observation in *Ramdoss*¹⁷ that the High Court in exercise of its revisional jurisdiction cannot act as an appellate court/authority and it is impermissible for the High Court to reassess the evidence in a revision petition filed under Section 25 of the Act is in accord with *Rukmini*¹ and *Sankaranarayanan*⁹. Its observation that the High Court can interfere with incorrect finding of fact must be understood in the context where such finding is perverse, based on no evidence or misreading of the evidence or

such finding has been arrived at by ignoring or overlooking the material evidence or such finding is so grossly erroneous that if allowed to stand, will occasion in miscarriage of justice. *Ramdoss*¹⁷ does not hold that the High Court may interfere with the findings of fact because on re-appreciation of the evidence its view is different from that of the first Appellate Court or Authority.

44. The decision of this Court in *V.M. Mohan*¹⁹ is again in line with the judgment of this Court in *Rukmini*¹.

45. We hold, as we must, that none of the above Rent Control Acts entitles the High Court to interfere with the findings of fact recorded by the First Appellate Court/First Appellate Authority because on re-appreciation of the evidence, its view is different from the Court/Authority below. The consideration or examination of the evidence by the High Court in revisional jurisdiction under these Acts is confined to find out that finding of facts recorded by the Court/Authority below is according to law and does not suffer from any error of law. A finding of fact recorded by Court/Authority below, if perverse or has been arrived at without consideration of the material evidence or such finding is based on no evidence or misreading of the evidence or is grossly erroneous that, if allowed to stand, it would result in gross miscarriage of justice, is open to correction because it is not treated as a finding according to law. In that

event, the High Court in exercise of its revisional jurisdiction under the above Rent Control Acts shall be entitled to set aside the impugned order as being not legal or proper. The High Court is entitled to satisfy itself the correctness or legality or propriety of any decision or order impugned before it as indicated above. However, to satisfy itself to the regularity, correctness, legality or propriety of the impugned decision or the order, the High Court shall not exercise its power as an appellate power to re-appreciate or re-assess the evidence for coming to a different finding on facts. Revisional power is not and cannot be equated with the power of reconsideration of all questions of fact as a court of first appeal. Where the High Court is required to be satisfied that the decision is according to law, it may examine whether the order impugned before it suffers from procedural illegality or irregularity.

46. We, thus, approve the view of this Court in *Rukmini*¹ as noted by us. The decision of this Court in *Ram Dass*² must be read as explained above. The reference is answered accordingly..

47. Civil Appeals and Special Leave Petitions shall now be posted before the regular Benches for decision in light of the above.

.....CJI.
(R.M. Lodha)

.....J.
(Dipak Misra)

.....J.
(Madan B. Lokur)

.....J.
(Kurian Joseph)

NEW DELHI;
AUGUST 27, 2014.

.....J.
(S.A. Bobde)



JUDGMENT