

HIGH COURT OF MADHYA PRADESH, BENCH AT INDORE

Case Number	M.P. No.6301/2019
Parties Name	Seth Trilokchand Kalyanmal Digambar Jain & Another v/s Sushil Kumar Kasliwal & Another
Date of Order	07/10/21
Bench	Single Bench: Justice Sujoy Paul
Judgment delivered by	Justice Sujoy Paul
Whether approved for reporting	Yes
Name of counsel for parties	Shri A.S. Garg, learned Senior Counsel along with Ms. Poorva Mahajan, learned counsel for the petitioners. Shri V.K. Jain, learned Senior Counsel along with Ms. Vaishali Jain, learned counsel for the respondents.
Law laid down	M.P. Public Trusts Act, 1951 – Sections 8 and 2(i) – Civil Suit / application is filed under Sections 8 and 9 before the District Judge who transferred it for adjudication before a Civil Judge, Class-I. It was held that the term 'Court' has a different meaning than the words 'a Civil Court'. M.P. Civil Court Act, 1958 – Section 3 describes various 'Civil Courts'. The legislature in its wisdom used the words 'a Civil Court' in Section 8 of the Trusts Act whereas used the word 'Court' in other sections namely 24, 25, 26, 27 and 28 of the Trusts Act. Necessarily, the word 'Court' means Principal Civil Court of original jurisdiction in the District whereas 'a Civil Court' has a different meaning. Since application / suit was filed under Section 8 of the Trust Act, it has to be tried by 'a Civil Court'. Interpretation of Statute – the golden principle is to give meaning to each and every word used by the legislature. Law discussed and it was held that legislature decided to use the term 'Court' and words 'a Civil Court' in different provision

	of the Trust Act which should be given effect to, while interpreting the provision. Article 227 of the Constitution of India – the order of District Judge transferring the suit filed under Section 8 of Trust Act to Civil Judge, Class-I was not found to be illegal, perverse or bad in law and interference is declined.
Significant paragraph numbers	7 to 15

ORDER
07.10.2021

Sujoy Paul,J.

The interesting conundrum in this matter relates to the interpretation of the words 'Civil Court' occurring in Section 8 of the M.P. Public Trusts Act, 1951 (hereinafter referred as **The Trusts Act**).

02. The relevant factual background is that respondent No.1 / plaintiff filed a civil suit / application under Section 8 and 9 of the Trusts Act against the petitioner and respondent No.2 seeking relief of declaration and injunction before the District Judge, Indore which was registered as COS No.RCS A-1088/2019. The learned District Judge transferred the said civil suit to the Court of VIth Civil Judge, Class-I, Indore for its adjudication. This order of learned District Judge is called in question in this petition filed under Article 227 of the Constitution of India.

02. Shri A.S. Garg, learned Senior Counsel submits that a combine reading of Section 2(i) which defines 'Court' and Section 8 makes it clear that 'Court' means Principal Civil Court of original jurisdiction in the District. Thus, learned District Judge has erred in transferring the matter to Civil Judge, Class-I. In view of **2012 (4) MPLJ 675 (Shri Dev Mahadevji Mandir, Rehli v/s Rajesh Kumar & Another)**, the term 'Court' means the Principal Civil Court of original jurisdiction in the district. In view of this judgment, the order of

learned District Judge be set aside and the Civil Suit may be directed to be decided by a Court having competent jurisdiction.

03. Respondent No.1 opposed the said contention and contended that term 'Court' is used in certain sections of the Trusts Act. However a careful reading of Section 8 of the Trusts Act shows that the lawmakers consciously used words 'a Civil Court' in some other sections. There is a distinction between the term 'Court' and words 'a Civil Court'. Both are defined in different enactments in a different manner and used in Trusts Act for different purpose. Reliance is placed on *1961 J LJ 329 (Badri Prasad v/s Umashanker)*.

04. Shri V.K. Jain, learned Senior Counsel urged that for the purpose of deciding a civil suit / application filed under Section 8 of the Trusts Act, the Court must be 'a Civil Court' which is defined in M.P. Civil Court Act, 1958. Thus, no fault can be found in the impugned order of learned District Judge in transferring the matter before the Civil Judge, Class-I.

05. No other point is pressed by learned counsel for the parties.

06. I have heard the parties at length and perused the record.

07. Before dealing with rival contentions of the parties, it is apposite to refer certain provisions. The 'Court' is defined in the Trust Act as under:-

“2. Definitions.-In this Act, unless there is anything repugnant in the subject or context. –

(1) **“court”** means the principal Civil Court of original jurisdiction in the District.”

(emphasis supplied)

08. Section 8 of the Trusts Act reads as under:-

8. Civil suit against the finding of the Registrar.-

(1) Any working trustee or person having interest in a public trust or any property found to be trust property, aggrieved by any finding of the Registrar under Section 6 may, within six months from the date of the publication of the notice under sub-section (1) of Section 7, institute a suit in a Civil Court to have such finding set aside or modified.

(2) In every such suit, the **Civil Court** shall give notice to the State Government through the Registrar, and the State

Government, if it so desires, shall be made a party to the suit.

(3) On the final decision of the suit, the Registrar shall, if necessary, correct the entries made in the register in accordance with such decision.

(emphasis supplied)

09. Section 3 of the M.P. Civil Court Act, 1958 describes various Civil Court as follows:-

“3. Classes of Civil Courts.- [(1)]. In addition to the Courts established under any other law for the time being in force, there shall be the following classes of Courts, namely :-

- (1) The Court of the District Judge;
- (2) [x x x]
- (3) the Court of the [Civil Judge Class I]; and
- (4) the Court of the [Civil Judge Class II]

(2) Every Court of the District Judge shall be presided over by a District Judge to be appointed by the High Court and the High Court may also appoint Additional District Judges from the cadre of Higher Judicial Service to exercise jurisdiction in the Court of the District Judge.]

(3) An Additional Judge to the Court of Civil Judge may be appointed from the cadre of Lower Judicial Service.

(4) The Court of District Judge shall include the Court of [Additional District Judge] and the Court of Civil Judge Class I or Class II shall include the Court of Additional Civil Judge to that Court.”

10. This Court in the case of *Badri Prasad (supra)* noted the difference between the word 'Court' used in Sections 24, 25, 26, 27 and 28 of the Trusts Act in contrast to the words 'a Civil Court' used in Section 8 of the Trusts Act, The question framed was *whether the phrase 'a Civil Court' has not been construed in the same manner as the phrase 'a Court' used in Section 24 to 28 of the Trusts Act.* In *Badri Prasad (supra)*, this Court opined that the words 'a Civil Court' have not been defined in the Trusts Act. This Court took assistance of Section 3 of the M.P. Civil Court Act, 1958. The Court opined that the definition of 'Civil Court' would be applicable to the phrase 'a Civil Court' occurring in Section 8 and 12 of the Trusts Act. In no uncertain terms it was held as under:-

“8. It is true that in Chapter 5 of the M.P. Public Trusts Act, 1951, the phrase used as “the Court”, which would necessarily imply to Court of District Judge as

defined by section 2(1) of the Act. But, the same phrase not having been used in Chapter 2, which contains Sections 8 and 12 of the Act, it cannot be stated that the intention of the legislature was that a civil suit under Section 8(1) of the Act should be filed in the Court of the District Judge. Therefore, the ordinary grammatical meaning of the phrase would mean that the **suit can be filed in a Civil Court of a competent jurisdiction, whether it be the Court of the Civil Judge Class II or the Court of Civil Judge Class I or the Court of Additional District Judge or the Court of District Judge. That will depend upon the territorial jurisdiction, as also the pecuniary valuation of the suit.”**

(emphasis supplied)

11. The golden principle of interpretation is that legislature has used every word consciously and for a purpose. Attempt should be made to give meaning to each word, term and expression used in a statute. As on the one hand, it is not permissible to add words or to fill in a gap or lacuna, on the other hand effort should be made to give meaning to each and every word used by the Legislature. “It is not a sound principle of construction”, said PATANJALI SHASTRY, C.J.I; “to brush aside words in a statute as being inapposite surplusage, if they can have appropriate application in circumstances conceivably within the contemplation of the statute”¹ And as pointed out by JAGANNADHADAS, J.: “It is incumbent on the court to avoid a construction, if reasonably permissible on the language, which would render a part of the statute devoid of any meaning or application”.² “In the interpretation of statutes”, observed DAS GUPTA, J.: “the courts always presume that the Legislature inserted every part thereof for a purpose and the legislative intention is that every part of the statute should have effect”.³ The Legislature is deemed not to waste its words or to say anything in vain⁴ and a construction which attributes redundancy to the Legislature will not be accepted except for compelling reasons.

1. Aswini Kumar Ghose Vs. Arabinda Bos, AIR 1952 SC 369, p.377; 1953 SCR 1; see further Union of India V Hansoli Devi, AIR 2002 SC 3240, p.3246; (2002) 7 SCC 273; State of Orissa Vs. Joginder Patjoshi, AIR 2004 SC 1039, p1142;; (2004) 9 SCC 278.

2. Rao Shiv Bahadur Singh v. State of UP, AIR 1953 SC 394, p397; 1953 SCR 1188

3. JK Cotton Spinning & Weaving Mills Co. Ltd V state of UP, AIR 1961 SC 1170, p.1174; (1962) 1 SCJ 417; (1961) 1 LLJ 540, Shri Mohammad Alikhan V Commissioner of Wealth Tax, AIR 1997 SC 1165, p1167; (1997) 3 SCC 511; Dilawar Babu Kurane V State of Maharashtra, AIR 2002 SC 564, p566; (2002) 2 SCC135; Ramphal Kudu V Kamal Sharma, AIR 2004 SC 1039 p.1042; (2004)9 SCC 278.

4. Quebec Railway, Light Heat and Power Co v. Vandy, AIR 1920 PC 181, p.186; 1920AC 662; See further Union of India v. Hansoli Devi, supra.5. Ghanshyamdas v. Regional Asstt. Commr, Sales Tax, AIR 1964 SC 766, p772.

12. In view of this golden principle of interpretation, I am in respectful agreement with the view taken by this Court is ***Badri Prasad (supra)***.

13. This Court will be failing in its duty if the judgment cited by Shri A.S. Garg, learned Senior Counsel is not taken into account. In the said judgment of ***Shri Dev Mahadevji Mandir, Rehli (supra)***, this Court considered the meaning of term 'Court' used in Sections 26 and 27 of the Trusts Act. As noticed above, the legislature in its wisdom has used the word, 'Court' in Section 24, 25, 26, 27 and 28 of the Trusts Act whereas used the words, 'a Civil Court' in Section 8 and 12 of the Trusts Act. Indisputably, in this case, this Court is concerned with an application / suit filed under Section 8 of the Trusts Act. Thus, the judgment cited by Shri A.S. Garg, learned Senior Counsel which is not related with Section 8 of the Trusts Act cannot be pressed into service.

14. In ***Badri Prasad (supra)***, this Court has dealt with the meaning and interpretation of the words 'a Civil Court' occurring in Section 8 of the Trusts Act whereas in ***Shri Dev Mahadevji Mandir, Rehli (supra)***, the Court considered word, 'Court' for the purpose of an application filed under Section 26 of the Trusts Act. Thus, interpretation given by previous Bench in ***Badri Prasad (supra)*** is mainly relating to Section 8 of the Trust Act whereas subsequent judgment in ***Shri Dev Mahadevji Mandir, Rehli (supra)*** is relating to Sections 26 and 27 of the Trusts Act. Thus, both the judgments are based on different provisions of the Trusts Act and it cannot be said that there is any cleavage of opinion between the Benches. In this case, the judgment of ***Badri Prasad (supra)*** is applicable because indisputably, the civil suit / application is filed under Section 8 of the Trusts Act, and therefore, this Court is concerned with the meaning of words 'a Civil Court'.

15. This is trite that the judgment of a Court should be understood in the fact situation of case and on the basis of governing statutory provisions. A different fact or different applicable provision may make a lot of difference in precedential value of a judgment (*see: (2003) 2 SCC 111 (Bhavnagar University v/s Palitana Sugar Mill Private Limited & Others)*).

16. In view of foregoing analysis, it can be safely held that since the words 'a Civil Court' are used in Section 8 of the Trusts Act, the learned District Judge was justified in transferring the suit before a Civil Court as per Section 3 of the M.P. Civil Courts Act, 1958. In absence of any violation of law, palpable procedural impropriety or perversity, interference is declined.

The petition is **dismissed**.

(SUJOY PAUL)
J U D G E

Ravi