$~66(Appellate)

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CM(M) 864/2022 & CM APPL.37131/2022, CM APPL.37132/2022

OM PRAKASH ..... Petitioner

Through: Mr. Vishal Bhatnagar, Ms. Lata Ublia, Is.Ishu Manakriya, Ms.Richa Narang Malik and Mr.Pratap Singh, Advs.

versus

THE DELHI PINJRAPOLE SOCIETY (REGO.)

..... Respondent

Through: None

CORAM:
HON'BLE MR. JUSTICE C.HARI SHANKAR

J U D G M E N T (O R A L)

% 26.08.2022

1. This petition, under Article 227 of the Constitution of India, assails order dated 5th July 2022, passed by the learned Principal District & Sessions Judge (the learned Pr. DSJ) in RCT 77/2018 ***(Om Prakash v. The Delhi Pinjrapole Society)***, to the extent the learned Pr. DSJ has rejected the petitioner's request to adjourn RCT 77/2018 [being an appeal preferred by the petitioner against order dated 31st May 2018 of the learned Additional Rent Controller (the learned ARC], till the Division Bench of this Court adjudicated on the questions of law referred to it by a learned Single Judge in a batch of Rent Control Revision Petitions headed by ***K.S. Bhandari v. International Security Printers Pvt. Ltd.***[1].

[1] **(2018) 167 DRJ 277**

2. Having heard learned Counsel for the petitioner at some length, it appears that the petitioner is harbouring a serious misconception of law which is that District Courts are competent only to decide questions of law for which prior authoritative precedents in the form of decisions of High Courts or the Supreme Court exist.

3. The submission advanced by Mr. Vishal Bhatnagar, learned Counsel for the petitioner, is that one of the issues which arises for consideration in RCT 77/2018 before the learned Pr. DSJ is whether a public charitable trust carrying on public activities qualifies as a "public institution" for the purposes of Section 22[2] of the Delhi Rent Control Act, 1958 (the DRC Act). This issue, points out, learned Counsel, stands referred by the afore-noted decision in ***K.S. Bhandari***[1] by a learned Single Judge of this Court to the Division Bench. He has drawn my attention, in this context to para 50 of the report in K.S. Bhandari, the relevant portion of which reads thus:

> "50. On the basis of the above and for the sake of convenience, I hereinbelow list the questions which may be answered by the Division Bench:

[2] **22. Special provisions for recovery of possession in certain cases-**

Where the landlord in respect of any premises is any company or other body corporate or any local authority or any public institution and the premises are required for the use of employees of such landlord or in the case of a public institution, for the furtherance of its activities, then, notwithstanding anything contained in section 14 or in any other law, the Controller may, on an application made to him in this behalf by such landlord, place the landlord in vacant possession of such premises by evicting the tenant and every other person who may be in occupation thereof, if the Controller is satisfied—

(a) that the tenant to whom such premises were let for use as a residence at a time when he was in the service or employment of the landlord, has ceased to be in such service or employment; or
(b) that the tenant has acted in contravention of the terms, express or implied, under which he was authorised to occupy such premises; or
(c) that any other person is in unauthorised occupation of such premises; or
(d) that the premises are required 'bona fide by the public institution for the furtherance of its activities.

Explanation.—For the purposes of this section, "public institution" Includes any educational institution, library, hospital and charitable dispensary.

* * * * *

(v) Whether a public charitable trust carrying on public activities qualifies as a public institution."

4. To a query from the Court as to why the learned Pr. DSJ cannot adjudicate on the aforesaid issue, till the reference to the Division Bench is decided, learned Counsel has provided an explanation which, frankly, it took some time to comprehend. His submission appears to be that there may be issues which are either *res integra,* having not been decided by any High Court or the Supreme Court prior thereto, or issues for which prior precedent is available do. Where the issue stands decided by an earlier decision of the High Court or the Supreme Court, then, according to learned Counsel, even if the issue was referred to a Larger Bench, there is no requirement of awaiting the decision of the Larger Bench for any hierarchically lower judicial authority to adjudicate the matter. For this purpose, learned Counsel has placed reliance on para 25 of the report in ***State of Maharashtra v. Sarva Shramik Sangh, Sangli***[3] which reads thus:

"25. The respondents, however, submitted that in the meanwhile the judgment in ***Bangalore Water Supply***[4] will have to be followed until it is overruled, since the proposition therein continues to hold good. Reliance is placed in that behalf, on the approach adopted by this Court in such a situation, in a matter concerning arbitration in ***State of Orissa v. Dandasi Sahu***[5]. In that matter this Court has held that in the exercise of this Court's discretion under Article 136, it would not be justified to allow a party to further prolong or upset adjudication of old and stale disputes till the decision of the larger Bench is received."

[3] **(2013) 16 SCC 16**
[4] ***Bangalore Water Supply and Sewerage Board v. A. Rajappa*, (1978) 2 SCC 213**
[5] **(1988) 4 SCC 12**

5. The submission of learned Counsel is, therefore that, where a precedent on the question of law exists, the Trial Court can go ahead and adjudicate on the matter before it, following the said precedent. Even if the said precedent has been referred to a larger Bench, there is no embargo on the Trial Court deciding the matter, for the simple reason that *there exists a precedent* of the High Court which it can follow. Where, however, there is no prior precedent on the question of law, in the form of a decision of the High Court or the Supreme Court, the submission of learned Counsel is that the Trial Court cannot adjudicate on the matter, especially where the precise question of law stands referred to a Division Bench of the High Court. In such a situation, learned Counsel's submission is that the Trial Court has necessarily to await the decision of the Division Bench of the High Court on the reference made to it, before adjudicating the *lis* pending before it.

6. The submission is completely misconceived in law.

7. There is no proscription whatsoever on a Trial Court taking a decision on any question that arises before it whether of fact or of law, irrespective of whether there exists, or does not exist, a prior precedent on the issue or there does not exist a precedent on the issue. Trial Courts are wholly competent to decide all questions of fact and law which may arise before them. Many such questions may be *res integra*, previously undecided by any superior court. The ld. Trial Court is well within its authority to decide all such issues and, possibly, even be the first judicial authority to take a view on the subject.

8. There is no principle of law which requires the existence of a prior judicial precedent on a question of law before a ld. Trial Court takes a view on the said issue. If there is any binding judicial precedent, of course, the ld. Trial Court would be bound to follow it unless the ld. Trial Court deems the precedent to be distinguishable for reasons which it would be required to elucidate. As such, even if the precise question of law that arises before the ld. Trial Court stands referred to the Division Bench of this Court, there is no embargo whatsoever on the learned Pr. DSJ taking a view on the issue. Qua the present case, there is no embargo whatsoever on the learned Pr. DSJ taking a view on whether a public charitable trust carrying on public activities qualifies as a "public institution" under Section 22[2] of the DRC Act, even while that question stands referred to a Division Bench in ***K.S. Bhandari***[1].

9. Learned Counsel then "asked himself" as to how, in case the Trial Court were to take a particular view on the issue and later, the Division Bench, in the reference made in ***K.S. Bhandari***[1] were to take a contrary view, the impasse could be resolved. The question is as easily posed as answered. If the ld. Pr. DSJ takes a view – which he is competent and well within its power to take, that view would always be amenable to challenge in accordance with law. If, in the interregnum, the Division Bench, in the reference made in ***K.S. Bhandari***[1] takes a view which is opposed to the view that the ld. Pr. DSJ would take, the judgment of the Division Bench can always be cited by the party who seeks to challenge the decision of the ld. Pr.

DSJ. The court which is seized of the challenge to the judgment of the ld. Pr. DSJ would then have to take a view as to whether the decision of the Division Bench would operate to nullify or justify setting aside of the decision of the ld. Pr. DSJ.

10. These principles are so elementary that it is somewhat surprising that the present petition was filed in the first place.

11. The impugned order dated 5th July 2022, passed by the learned Pr. DSJ also refers to the order of a Coordinate Bench of this Court in the case of ***M/s. Suvinys Developers Pvt. Ltd. v. M/s. Verma Beauty Parlor and Hair Dressers***[6]. The Coordinate Bench of this Court has correctly held, in the said decision, that the mere pendency of the question before a Division Bench or any higher forum is no justification for the ld. Trial Court adjourning the case before it *sine die.*

12. Expeditious disposal of proceedings, especially before the learned District Courts, has become a pressing necessity in today's day and age. Arrears are clogging the Courts and if matters are to be adjourned *sine die* merely because the question of law involved therein is not guided by any earlier precedent and stands referred by a higher forum to a Division Bench or even to a larger Bench of the Supreme Court, it would become impossible for the District Judiciary to decide matters before it.

[6] **Order dated 6th November 2020 in RC.REV. 545/2019**

13. This petition is, therefore, thoroughly misconceived. It is accordingly dismissed in *limine.* Pending applications are also stand disposed of.

C.HARI SHANKAR, J

AUGUST 26, 2022/kr