Chua Choon Lim Robert v MN Swami and Others
[2000] SGHC 144

Case Number : Suit 223/2000

Decision Date : 19 July 2000

Tribunal/Court : High Court

Coram : Amarjeet Singh JC

Counsel Name(s) : Appellant in person; KH Imran (Tan Rajah & Cheah) for the first respondent; Yip Shee Yin (Yeo-Leong & Peh) for the second respondent; Cheah Kok Lim (Michael Khoo & Partners) for the third respondent; Rodney Keong (Bih Li & Lee) for the fourth respondent; Fifth respondent in person; Michael Moey (Moey & Yuen) for the sixth and seventh respondents; Ashok Kumar and Edwin Tong (Allen & Gledhill) for the eighth and ninth respondents

Parties : Chua Choon Lim Robert — MN Swami

Civil Procedure – Judgments and orders – Order prohibiting plaintiff from recommencing litigation without leave of court – Whether Supreme Court has inherent jurisdiction to do so

Civil Procedure – Striking out – Abuse of process of court – Limitation of actions – Limitation Act (Cap 163)

Civil Procedure – Striking out – Plaintiff suing defendants despite undertaking to court not to commence actions – Whether actions against defendants disclosing no reasonable cause of action, vexatious, or abuse of process of court – O 18 r 19 Rules of Court

Civil Procedure – Striking out – Res judicata – Whether doctrine applies

: ***Introduction***

The appellant/plaintiff filed the writ of summons herein together with a statement of claim on 24 May 2000. He thereafter filed an amended statement of claim and applied for summary judgment against all the respondents/defendants. I shall refer to the parties singly as the plaintiff and the respective defendant as numbered.

All the defendants applied to have the plaintiff`s action struck off or dismissed under O 18 r 19 of the Rules of Court in that the action variously disclosed no reasonable cause of action, was vexatious and/or otherwise an abuse of the process of court.

The plaintiff was a Divisional Sales Manager of Great Eastern Life Assurance Company Ltd (`the company`) having risen from the post of a trainee agent in April 1975. He resigned from his post on 15 September 1980. He claimed he had been unemployed since then.

The first defendant is an advocate and solicitor practising under the name and style of M/s MN Swami & Yap.

The second defendant was a former Group Sales Manager of the company.

The third defendant is an advocate and solicitor practising under the name and style of Sam & Wijaya.

The fourth defendant was a former agency manager of the company.

The fifth defendant Heng Keng Leng was a Senior Inspector of Agents of the company whose superior

was the plaintiff.

The sixth defendant Gay Kok Peng was the Group Sales Manager of the company and immediate superior of the plaintiff.

The seventh defendant Ng Yik Soon Richard was a Senior Inspector of Agents of the company in August 1979 and was the immediate superior of Heng.

The eighth defendants are a firm of advocates and solicitors.

The ninth defendant is the company hereinbefore mentioned.

All the parties were represented by counsel before me except for the plaintiff and the fifth defendant who appeared in person.

The plaintiff`s application for summary judgment against all the defendants in the above action was dismissed by James KY Leong, the senior assistant registrar (`SAR`).

The SAR at the hearing instead made an order dismissing the plaintiff`s action pursuant to an application made by all defendants under O 18 r 19 of the Rules of Court.

The SAR further ordered:

> *the plaintiff is not allowed without the leave of the court to issue or commence any legal proceedings pertaining or relating to Suit 223/2000/R, Suit 7228/85 and CA 10/92 and the issues and the parties set out therein and in case the plaintiff should without such leave issue or commence any such legal proceedings the defendants are not to attend or otherwise deal with such legal proceedings unless the court on the return thereof shall so direct and unless the court shall think fit to give such directions, the legal proceedings shall be summarily dismissed without being heard. For the avoidance of doubt, this order shall not apply to any appeal filed against these orders herein.*

The plaintiff was finally ordered to pay fixed costs to the defendants.

The plaintiff appealed herein against all the above orders of the SAR.

I affirmed the orders of the SAR and dismissed the plaintiff`s appeal against all the defendants in respect of and concerning all the orders.

Before I deal with the grounds of my decision, I shall briefly set out the background of the case which had its genesis some 20 years ago.

Background

Suit 7228/85

The plaintiff had various differences in 1979 and 1980 with some of his supervisors and subordinates who were all sales agents. As stated earlier, he resigned from the company on 15 September 1980. Belatedly, in 1985 he brought an action in the High Court in Suit 7228/85 through the first defendant

and his firm of solicitors against three fellow sales employees of the company, the fifth, sixth and seventh defendants herein.

The fifth defendant was unrepresented and failed to enter an appearance. An interlocutory judgment in default was obtained against him by the plaintiff`s solicitors in 1985 with damages to be assessed. However, damages had never been assessed.

The action was heard by LP Thean J (as he then was) in May 1991 and again in early January and upon its conclusion on seventh January 1992, the learned judge dismissed the plaintiff`s action with costs. LP Thean J delivered his grounds of judgment on 16 June 1992 and the thrust of the plaintiff`s action was summarised in LP Thean J`s judgment as follows:

> *In April 1979, differences between the plaintiff and his group of inspectors and senior inspectors of agents arose. On 26 April 1979, six of them jointly wrote a letter to the development manager of the company applying for a transfer of themselves and their agents from the plaintiff`s organisation to Mohamed Amin`s organisation; the latter at that time was a group sales manager. This application was refused as it was the established practice of the company that no transfer of inspector and his agents from one group to another would be entertained unless the immediate superior of that group consented. In that instance the plaintiff was the immediate superior of the signatories who were senior inspectors of agents and he had not given his consent. However, the differences between the plaintiff and Heng became more acute, and apparently they could not work together; Heng was rebellious, not productive as an organiser and a difficult person to deal with. As a result, the plaintiff and Gay had a discussion on several occasions, and eventually, according to Gay, the plaintiff consented to Heng being transferred out of his group to the company`s direct group. The plaintiff, however, said he did not consent to Heng`s transfer. Ng was then working directly under Heng, and on learning that Heng would be transferred out of the plaintiff`s group, he requested for a transfer. These transfers were accordingly effected in July 1979 or thereabout.*
>
> *The plaintiff complained that as a result of these transfers, he was deprived of the overriding commission and profits from the sales procured by Heng and Ng and their agents and these transfers were brought about by or through the conspiracy of three of them, Gay, Heng and Ng. He further complained that after the transfers were effected he was harassed by Gay in pursuance of the conspiracy so much so that he was pressurised to leave the company. After he had left the company, he instituted this action against the three of them claiming damages for conspiracy with intent to injure him in the way of his trade or business. Heng did not defend the action, but the claim was resisted by Gay and Ng.*

The learned judge`s conclusion and findings were as follows:

> *To succeed on his claim, the plaintiff has to establish, inter alia, that the defendants at the material time had an agreement or understanding between them and acted in pursuance thereof to injure him. On the evidence before me, there was really no such agreement or understanding or anything to suggest that the defendants were at the material time acting in concert to injure him.*
>
> *...*

On the evidence, it was clear that Gay did not at any time agree to Heng being transferred to Mohamed Amin`s group. I accepted Gay`s evidence that the plaintiff had consented to Heng`s transfer to the company`s direct group. It was plain to me that the plaintiff and Heng could not get on with each other and had to part company. I also accepted Gay`s evidence and Ng`s evidence that Ng on his own volition requested for a transfer to Gay`s group and that only Heng`s consent was required in accordance with the company`s procedure, and Heng did give his consent. There was no evidence that Gay instigated Ng to apply for the transfer. All this evidence was borne out by or was consistent with the contemporary documents in existence.

The transfer of Heng to the company`s direct group and the transfer of Ng to the group of Gay were effected in July 1979 or thereabout. The evidence showed that these transfers were effected in accordance with the procedure of the company. There was no evidence that these transfers were effected pursuant to any agreement or understanding at all between the three defendants with the intent to injure the plaintiff. In fact, there was no evidence of any agreement or understanding existing between them. The plaintiff resigned from the company in September 1980 which was more than one year after the transfers. There was also no evidence that after the transfers Gay caused or procured members of his group to be disrespectful to the plaintiff or to utter foul or obscene language directed to the plaintiff, or that Gay in any other way exerted pressure on the plaintiff to resign from the company. In all probability, the reason for the plaintiff`s resignation from the company was that he could not get along with Gay, his immediate superior, at that time.

***Apart from the bare allegations of the plaintiff, there was not a shred of evidence on which he could rely in support of his claim**. The claim of the plaintiff for damages for conspiracy was obviously unsustainable and it was therefore dismissed. [Emphasis added.]*

CA 10/92

The plaintiff`s appeal in Suit 7228/85 filed on 2 February 1992 was numbered CA 10/92.

After receipt of the grounds of judgment in the said Suit 7228/85, the plaintiff failed to file his petition of appeal. The appeal thereafter lapsed as is evidenced by a letter from the Registry of the High Court to the plaintiff dated 4 July 1992 which stated:

the time for filing petition of appeal has expired and the appeal is now deemed to have been withdrawn pursuant to O 57 r 6(3) of the Rules of the Supreme Court 1970.

The plaintiff was adjudged a bankrupt in Bankruptcy 1523/94 being unable to pay the costs of $47,066.36 to the sixth and seventh defendants. He was discharged from his bankruptcy on or about 23 April 1999.

About three years later under the heading CA 10/92, the plaintiff attempted to restore his appeal by way of notice of motion against the fifth, sixth and seventh defendants alleging that Suit 7228/85 was a case of mis-trial and a miscarriage of justice. The notice of motion was dismissed on 26 May 1995.

Thereafter, after a further lapse of two years, the plaintiff in 1997 brought a series of applications by way of notice of motion purportedly under the same CA 10/92 to set aside the judgment in Suit 7228/95. The applications were dismissed as follows:

(i) NM 26/97 which was dismissed on 21 February 1997;

(ii) NM 62/97 which was dismissed on 15 May 1997.

(iii) NM 204/97 which was dismissed on 1 August 1997.

(iv) NM 26/97 which was dismissed on 11 August 1998.

(v) On 14 October 1997 by a further NM 272/97 under CA 10/92 the plaintiff issued the present action against all the nine defendants and additionally against others including the Attorney General. The plaintiff claimed a `grand conspiracy` between MN Swami, Mohamed Amin bin Mohd Taib, RS Wijaya, Allen & Gledhill, the company and the Attorney General`s Chambers to defeat his claims.

Consequently, upon the plaintiff joining the Attorney General as a party to his application in NM 272/97, the Attorney General`s Chambers applied by way of OM 36/97 under s 74 of the Supreme Court of Judicature Act to declare the plaintiff a vexatious litigant.

The plaintiff`s NM 272/97 was adjourned and the Attorney General`s originating motion was heard. At the hearing, the plaintiff was then represented by Lim Choon Mong, an advocate and solicitor. The plaintiff before Tan Lee Meng J gave certain undertakings to the court not to commence any action against any party named in the previous proceedings of Suit 7228/85 and CA 10/92.

The relevant part of the order of court in OM 36/97 reads:

> *(1) that except as provided in paragraph (3) below, I will cease to make any application or commence any legal proceeding directly or indirectly against any person whom I have named in the previous proceedings taken out by me in the High Court in respect of Suit 7228/85 and CA 10/92;*
>
> *(2) that I will cease to make allegations or write letters or produce documents which seek to revive issues determined in Suit 7228/85 and CA 10/92, in particular I shall not make allegations against the Attorney General and the many public offices who I have written to regarding this matter, and I shall not abet, encourage or otherwise cause any person to do likewise; and*
>
> *(3) that with regard to NM 272/97 which was taken out by me, I shall not proceed with this application unless I first obtain the sanction of the Official Assignee and I accept that any decision of the Official Assignee in this regard is final.*

The learned judge`s notes of evidence clearly showed that the plaintiff gave the undertaking voluntarily and in full understanding as they state:

Mr Lim	:	My client has agreed to sign an undertaking if he is not declared a vexatious litigant.
Robert Chua	:	I have read the undertaking and understand the implications.
Court	:	He signed the undertaking before me and his signature was witnessed by Mr Lim Choon Mong. In view of the signed undertaking enclosed overleaf, OM 36/97 is adjourned sine die with liberty to restore.

The present action: Suit 223/2000R & RA 4/2000

I shall now deal with the present suit and my grounds of decision in dismissing the plaintiff`s appeal from the SAR`s decision concerning the orders which the SAR made as set out earlier (the dismissal of the appeal concerning summary judgment is not further appellable). I shall take the case against each defendant separately and where necessary, jointly or together, starting with the plaintiff`s case against the fifth, sixth and seventh defendants as the respective case against them springs from the earlier Suit 7228/85 which also directly affects the plaintiff`s case against the other defendants.

Fifth, sixth and seventh defendants

Essentially, the plaintiff charged that the fifth, sixth and seventh defendants committed various acts of wrongful conduct in 1979 and 1980 including conspiracy to injure and destroy his promising life insurance career and to become a Group Sales Manager and consequently the high commissions to be earned in that post. The plaintiff had to resign from his job because of them on 15 September 1980. The plaintiff alleged a total loss of income through the deprivation of higher scales of commission and forfeiture of commissions, costs and loss of interest quantifying the same in excess of $6m and further also claimed liquidated damages. The plaintiff also sought unspecified aggravated damages against the sixth and seventh defendants for having unjustly obtained costs in the earlier trial being the judgment debt of $47,066 by their false evidence and perjury there.

I was satisfied that the plaintiff`s allegations against the fifth defendant in his statement and amended statement of claim in the present action were no different from those made against him in Suit 7228/85. During the hearing before me, it was brought to my attention that the plaintiff had in fact obtained an interlocutory judgment against the fifth defendant on 15 May 1986 as is evidenced by a copy of the interlocutory judgment and certificate of non-appearance against the second defendant (exh PS2). The plaintiff conceded he had obtained the judgment against the fifth defendant but was unable to explain why he had brought the present action against the fifth defendant. The plaintiff further conceded that he had not proceeded further on the interlocutory judgment all these 16 years. The fifth defendant`s explanation on the other hand, had been that he had accompanied the plaintiff to the first defendant`s office where he was told that there was no case against him. I was satisfied on the evidence before me that the plaintiff had no justification for bringing the present action against the fifth defendant having already obtained interlocutory judgment against him on 15 May 1986 in Suit 7228/85. There had been no appeal against the said judgment. The SAR had therefore correctly as far as the fifth defendant was concerned dismissed the plaintiff`s

suit against him.

Similarly, I found that the allegations against the sixth and seventh defendants in the plaintiff`s statement and amended statement of claim to be the same or very substantially the same as the plaintiff had alleged against them in the previous Suit 7228/85. That suit had been dismissed by the trial judge, LP Thean J (as he then was) in a reasoned judgment. The plaintiff allowed his appeal being CA 10/92 to lapse by not filing his petition of appeal. An application belatedly, three years later in 1995, under the heading CA 10/92 to extend time to restore the appeal had been dismissed by the court before which it was heard. The subsequent applications to appeal by various motions purportedly under the same heading CA 10/92 were an abuse of the court`s process. In any case they had all been dismissed as I have narrated earlier. There having been no appeal therefore, the plaintiff was bound by the judgment of LP Thean J (as he then was). The learned trial judge had furthermore found the sixth and seventh defendants to be credible witnesses in dismissing the plaintiff`s case. The learned judge made several findings of fact amongst them being that there was no agreement or understanding between the fifth, sixth and seventh defendants in concert to injure him and that the plaintiff had not produced a shred of evidence in that regard and therefore there was no conspiracy. The plaintiff alleged that the sixth and seventh defendants lied in court. By this allegation he sought only to revive his action which he could not do. The principle of ***res judicata pro veritate acciptur*** applied. The matter or issue between the parties had been litigated and decided. It could not be raised between the same parties again and if raised in subsequent proceedings, is liable to be struck off as an abuse of the process of court: **House of Spring Gardens Ltd v Waite** [1991] 1 QB 241; [1990] 3WLR 347.

Further, the plaintiff has by commencing this suit, breached his undertaking to the court dated 8 May 1998 and acted and continued to act contemptuously of the same. The undertaking clearly referred to the sixth and seventh defendants as they had been made parties to Suit 7228/85 and additionally named in CA 10/92.

In the premises, the plaintiff`s proceedings in the present suit against the sixth and seventh defendants were, for the reasons given, vexatious and an abuse of the process of court and had rightly been dismissed by the SAR.

First defendant

The plaintiff`s claim against the first defendant, Mr MN Swami, for damages was based largely on acts of wrongful commission and omission in and about and touching the conduct of the trial before LP Thean J (as he then was) and certain witnesses` testimony or the lack of it at the trial. More specifically and amongst other things, the plaintiff alleged against the first defendant that he was guilty of gross negligence in failing to include the company and the second defendant herein as defendants in the earlier Suit 7228/85, of gross delay in bringing about that suit for a hearing, ignoring the plaintiff`s instructions, obstructing witnesses especially one Yeap from appearing and acting in collusion and in conspiracy with the third defendant (who was the opposing counsel) to injure the plaintiff. The plaintiff additionally alleged against the first defendant that he had maliciously attempted to fix the plaintiff up and have the plaintiff prosecuted by the Attorney General.

Counsel for the first defendant submitted before me, inter alia, that the plaintiff was barred by the limitation period of six years which applied under the Limitation Act (Cap 163) from bringing the action against the first defendant as firstly, the present action sought to relitigate the same issues as those the plaintiff was attempting to relitigate against the fifth, sixth and seventh defendants and secondly that the alleged cause of action in any case against the first defendant as raised by the plaintiff

related to the period of the trial of the action (or before) which trial culminated on 7 January 1992. The limitation period therefore had expired in January 1998. The plaintiff had only instituted his proceedings against the first defendant on or about 2 May 2000, ie some two years after expiry of the period of limitation. Counsel also submitted that the plaintiff had also been in breach of his undertaking to the court not to commence any action against any party named in the previous proceedings, Suit 7228/85 and CA 10/92. The first defendant had been named in the various applications under the purported heading CA 10/92. Consequently the plaintiff should not be allowed to continue unless he had purged his contempt and obtained a release of his undertaking.

I was in substantial agreement with the submissions of the first defendant`s counsel and was of the view that the plaintiff`s action against the first defendant was time-barred even if the allegations of the plaintiff were true. An action where the limitation period had set in and is brought thereafter comes within the ambit of the principles which govern an abuse of the process of court: **Ronex Properties Ltd v John Laing Construction Ltd** [1983] QB 398. He was also in breach of his undertaking as submitted above. The SAR was therefore, right in dismissing the plaintiff`s action under O 18 r 19 as being vexatious and an abuse of the process of court.

I therefore dismissed the plaintiff`s appeal against the first defendant.

Second defendant

The plaintiff`s claim for damages against the second defendant was primarily for acts of abetment against the sixth and seventh defendants to injure and destroy the plaintiff`s promising life insurance career as a result of which he lost higher scales commission.

It is clear that Suit 7228/85 against the sixth and seventh defendants was grounded in their alleged misconduct against the plaintiff in the years 1979 and 1980 in which year he resigned from the company. Therefore, the acts of abetment even if they could be made out against the second defendant as true, related to the second defendant`s alleged misconduct in 1979 and 1980. Consequently, the plaintiff should have brought an action against the second defendant within six years of those dates. The plaintiff has brought his suit against him some 14 or 15 years later and his present suit is therefore plainly time-barred. Further, the plaintiff has breached his own undertaking given to Tan Lee Meng J as set out earlier, not to proceed in respect of the alleged matters as they are the same as alleged against the second defendant in his various applications purportedly under CA 10/92 in which the second defendant is a named party.

I therefore affirmed the decision of the SAR and dismissed the plaintiff`s appeal as his suit against the second defendant was vexatious and also an abuse of the process of the court.

Third defendant

The plaintiff had alleged a conspiracy by the third defendant and the first defendant not to call one Tio Khek Boon and one Pathmarajah, the Chief Executive Officer of the company. The third defendant`s case was that it was up to the first defendant to call these witnesses if they were relevant to the plaintiff`s case. Counsel for the third defendant submitted that the third defendant did not call them because after consulting the sixth and seventh defendants (before and during the trial), they decided not to call these witnesses as they could not add materially to the case and the decision not to call them was made without any influence from the first defendant or anyone else.

I was of the opinion that if the plaintiff could prove something sinister concerning the third defendant`s failure to call these witnesses it should have been done at the latest by early 1998 as the suit had ended in January 1992 after which the plaintiff was time-barred in proceeding against the third defendant in respect of his above said or any other allegations the plaintiff was making against him. The trial had begun in May 1991 was adjourned to 6 and 7 January 1992 when it ended. The plaintiff had plenty of time to reflect correctly over how and what evidence he was going to adduce.

I also found the plaintiff`s allegations against the third defendant to be somewhat incomprehensible as the third defendant was not his ally but representing his opponents. He had no duty to further the case of the plaintiff.

The undertaking before Tan Lee Meng J previously referred to also covered the third defendant as he had been named in the various applications purportedly made under CA 10/92. The undertaking being operative and not being discharged disabled the plaintiff further from instituting the present suit against the third defendant.

For the above reasons I affirmed the SAR`s decision and dismissed the plaintiff`s appeal against the third defendant as disclosing no reasonable cause of action, being vexatious and an abuse of the process of court.

Fourth defendant

The plaintiff alleged against the fourth defendant acts of `contempt of court` and `non attendance and non-compliance to the command of the court`s subpoena` in Suit 7228/85, `gross negligence`, `direct involvement` in the events of the said Suit as well as `secret collusion and conspiracy to injure and destroy the plaintiff`s promising life insurance career`.

I was satisfied that the action against the fourth defendant was time-barred as all his allegations arose out of the events which had allegedly taken place in 1979 and 1980 and/or as taking place during the trial period and its adjourned hearing from May 1991 to 7 January 1992. Again, the plaintiff should have begun his suit against the fourth defendant at the latest by January 1998 when the six years expired.

I therefore affirmed the SAR`s decision and dismissed the plaintiff`s action against the fourth defendant as being also vexatious and an abuse of the process of the court.

Eighth and ninth defendants

It will be recollected that the plaintiff had applied by NM 62/97 dated 2 April 1997, to apply to join additional parties to the proceedings alleging a `grand conspiracy` not only between the first, second, third defendants but the Attorney General as well. Additionally, he had also joined the eighth and ninth defendants to the proceedings.

As to the eighth defendants, the plaintiff firstly, faulted the SAR`s decision to dismiss the plaintiff`s application for judgment against the eighth defendants on the ground submitted by the plaintiff that the eighth defendants had filed their memorandum of appearance out of time.

However, the eighth defendants though late had filed their memorandum of appearance a week before the plaintiff filed his application for judgment in default of appearance. The plaintiff`s application or

his proceeding with it, was, in my opinion, therefore, mischievous. The plaintiff had made a search for the appearance at the Registry the day after the appearance was filed. Secondly, the plaintiff alleged against the eighth defendants that the eighth defendants colluded to destroy the plaintiff`s intended claim for compensation and damages against the ninth defendants. The elements of the tort of conspiracy were not pleaded. It is evident from the records that the eighth defendant was not at all involved in Suit 7228/85. The plaintiff was founding his claim on a straw - a letter dated 4 July 1993 mistakenly sent by the High Court Registry to the eighth defendants instead of to the third defendant. The Registry confirmed this error in a subsequent letter. The plaintiff`s claim was, therefore, simply unsustainable.

Subsequently, other similar applications were repeatedly made against the eighth and ninth defendants and the other defendants especially NM 272/97 dated 14 July 1997 which included the Attorney General resulting in the Attorney General`s OM 36/97 to have the plaintiff declared a vexatious litigant. The plaintiff also alleged against the Attorney-General`s Chambers a `grand conspiracy` to injure him. The plaintiff`s undertaking given under the originating motion included the eighth and ninth defendants who had been named parties under applications made in the purported CA 10/92.

I noted that the plaintiff had gone on after giving the undertaking to issue OS 473/2000 against the eighth and ninth defendants. This originating summons had been dismissed on 14 April 2000.

Not to be defeated the plaintiff stubbornly followed up by making the eighth and ninth defendants parties again in his present Suit 223/2000/R brought on 2 May 2000.

The plaintiff was again in breach of his above-stated undertaking not to institute an action against the eighth and ninth defendants and revive the allegations made, amongst other things, in CA 10/92. He was again acting contemptuously on his undertaking concerning the eighth and ninth defendants. In my opinion, it prevented him from mounting an action against the eighth and ninth defendants as the substance of his allegations in the present suit were very substantially the same as in CA 10/92.

The plaintiff was further time-barred under the Limitation Act (Cap 163) for the same reasons as I stated earlier, in respect of the other defendants from commencing this action against the eighth and ninth defendants. It is not necessary for me to repeat them here. Instituting a time-barred suit can, as I have stated earlier, constitute an abuse of the process of court and in this case it did. The SAR was right again in dismissing the plaintiff`s action against the eighth and ninth defendants.

SAR`s order prohibiting repeat proceedings

Finally, as for the SAR`s order prohibiting the plaintiff from recommencing litigation in future relating to the matters and issues in the present Suit 223/2000/R and the previous proceedings in Suit 7228/85 and CA 10/92 without leave or if begun without leave to have them summarily dismissed without being heard, the SAR was making the said order under the court`s inherent jurisdiction. The Supreme Court has the inherent jurisdiction to prevent the initiation of civil proceedings which are vexatious, frivolous or likely to constitute an abuse of the process of court. In **Grepe v Loam** [1887] 37 Ch D 168 (CA), the court declared and used its inherent jurisdiction to prevent repetition of a frivolous application after several had already been made by the applicant before the court. Subsequently, in **Lord Kinnaird v Field** [1905] 2 Ch D 306 (CA), a defendant continued to make frivolous interlocutory applications every time one was dismissed or aborted concerning the plaintiff`s pleadings. More than 30 applications had been made. Warrington J in the court below after referring to ***Grepe v Loam*** made the following order to prevent an abuse of the court`s process:

> *This court doth order that the defendant is not to be allowed without the leave of the judge in chambers to make any application under the summons for directions, or to issue any summons on matters of procedure, or to serve any notice of motion to discharge any order in chambers made on any such application as aforesaid, without such leave: And in case he shall, without such leave, serve notice of any such application or summons or notice of motion as aforesaid on the plaintiffs, they are not to attend unless the judge on the return thereof shall so direct; and, unless the judge shall think fit to give such directions, the application shall be dismissed without being heard: And it is ordered that the plaintiffs` costs of this application be borne by the defendant in any event.*

The Court of Appeal had subsequently approved the order. In both the above cases, the orders restrained the making of fresh frivolous applications. A variation of the issue arose recently in **Ebert v Venvil & Anor** [1999] 3 WLR 671 where the Court of Appeal in a judgment delivered by Lord Woolf MR held that the court also had undoubtedly inherent jurisdiction where appropriate to make a ***Grepe v Loam*** order prohibiting new proceedings commenced without the leave of the court.

The SAR, on the submissions of defendants` counsel, made the restraining order in the terms he did no doubt on the strength of the above authorities. He exercised his discretion wisely and was fully justified in making the order he did as set out earlier against the plaintiff to prevent the plaintiff (or plaintiffs similarly placed as the plaintiff) from continuing to make multiple applications to court and instituting new proceedings alleging and raising repeatedly the same material issues thereby putting the defendants unreasonably to expense and taking a toll on the court`s scarce resources, all of which constituted vexatious conduct and an abuse of the process of court. Such an order by a court does not undercut a litigant`s rights of access to the courts. If the proceedings are shown to be arguably meritorious, leave would no doubt be given. I may add that the inherent power of the court as exercised above is in addition to the power that is conferred by s 74 of the Supreme Court of Judicature Act (Cap 322) on an application made by the Attorney General to have a person declared as a vexatious litigant.

Conclusion

Accordingly, I dismissed the plaintiff`s appeals against all the nine defendants in respect of all the orders made by the SAR against the plaintiff with costs.

Outcome:

Appeals dismissed.

Copyright © Government of Singapore.