Before Mukul Mudgal, C.J. & Jasbir Singh, J.

U.T. CHANDIGARH,—*Appellant*

versus

M/S KRISHAN CHAND GANESH DASS VINAY KUMAR AND CO.,—*Respondents*

L.P.A. No. 205 of 2007 in

C.W.P. 17038 of 1991

5th May, 2010

Constitution of India, 1950—Art. 226—Cancellation of lease in favour of Company—Appeal and revision filed against cancellation order dismissed by competent authorities—Single Judge ordering re- examination of matter by competent authority without assigning any reason—Not a correct appreciation of pleas and issues required to be done while allowing a petition under Art. 226 of Constitution—Appeal allowed, matter remanded to Single Judge with a direction to dispose of same in accordance with law.

Held, that the order dated 14th July, 1987, cancels lease in favour of the respondent and the appellate order dated 30th January, 1990, dismisses the appeal and the revision, filed by the petitioner against the order dated 14th July, 1987. The learned Single Judge gave no reason why the reasoning contained in the order dated 14th July, 1987 and the appellate order dated 30th January, 1990 was deficient or erroneous requiring setting aside of that order by the learned Single Judge. The aforesaid reasoning is evident from the fact that all that the learned Single Judge has said is that he has gone through the record. This is not a correct appreciation of pleas and issues, which is required to be done while allowing a writ petition under Article 226 of the Constitution of India.

(Para 3)

K. K. Gupta, Advocate, *for the appellant;*

Chetan Mittal, Sr. Adv., with Kunal Mulwani, Advocate, *for the respondent.*

JUDGMENT

MUKUL MUDGAL, CHIEF JUSTICE (ORAL)

(1) This appeal challenges the judgment dated 19th July, 2006, of the learned Single Judge, which allowed the writ petition, filed by the respondent, and quashed orders dated 14th July, 1987 and 30th January, 1990 (Annexures P-14 and P-16 respectively with the writ petition). The respondent-Company was directed to file a detailed representation before the competent authority within a period of four weeks. The competent authority was directed to decide the matter afresh taking into the postion of law laid down by the Hon'ble Supreme Court in **Municipal Corporation, Chandigarh and others** *versus* **M/s Shanti Kunj Investment Private Limited (1).** The stand of the petitioner before the learned Single Judge was that the matter was required to be re-examined by the competent authority in view of the aforesaid judgment of the Hon'ble Supreme Court. The stand of the appellant herein is that the issue required no re-examination by the authority, in other words, the stand taken in orders dated 14th July, 1987 and 30th January, 1990, was reiterated. The learned Single Judge has, by the following reasoning, set aside the orders dated 14th July, 1987 and 30th Janaury, 1990 :

> "Learned counsel appearing for the respondents has challenged the submission made by learned counsel appearing for the petitioner, but after having gone through the record, I find that the matter requires re-examination by the competent authority and the objection raised by learned counsel for the respondents is without any basis."

(2) The order dated 14th July, 1987, cancels lease in favour of the respondent and the appellate order dated 30th January, 1990, dismisses the appeal and the revision, filed by the petitioner against the order dated 14th July, 1987.

(3) In our view, the learned Single Judge gave no reason why the reasoning contained in the order dated 14th July, 1987, and the appellate order dated 30th January, 1990, was deficient or erroneous requiring setting aside of that order by the learned Single Judge. We are of the view that

(1) J.T. 2006 (3) S.C. 1

the aforesaid reasoning is evident from the fact that all that the learned Single Judge has said is that he has gone through the record. In our view, this is not a correct appreciation of pleas and issues, which is required to be done while allowing a writ petition under Article 226 of the Constitution of India.

(4) Their Lordships of the Hon'ble Supreme Court in **Assistant Commissioner, Commercial Tax Department, Works Contract and Leasing, Kota** *versus* **Shukla and Brothers,** MANU/SC/0258/2010, has not approved the passing of non-reasoned orders by the Courts while observing as under :

> "21. We are not venturing to comment upon the correctness or otherwise of the contentions of law raised before the High Court in the present petition, but it was certainly expected of the High Court to record some kind of reasons for rejecting the revision petition filed by the Department at the very threshold. A litigant has a legitimate expectation of knowing reasons for rejection of his claim/prayer. It is then alone, that a party would be in a position to challenge the order on appropriate grounds. Besides, this would be for the benefit of the higher or the appellate court. As arguments bring things hidden and obscure to the light of reasons, reasoned judgment where the law and factual matrix of the case is discussed, provides lucidity and foundation for conclusions or exercise of judicial discretion by the courts. Reason is the very life of law. When the reason of a law once ceases, the law itself generally ceases (Wharton's Law Lexicon). Such is the significance of reasoning in any rule of law. Giving reasons furthers the cause of justice as well as avoids uncertainty. As a matter of fact it helps in the observance of law of precedent. Absence of reasons on the contrary essentially introduces an element of uncertainty, dissatisfaction and give entirely different dimensions to the questions of law raised before the higher/appellate courts. In our view, the court should provide its own grounds and reasons for rejecting claim/prayer of a party whether at the very threshold i.e. at admission stage or after regular hearing, howsoever precise they may be.

22. We would reiterate the principle that when reasons are announced and can be weighed, the public can have assurance that process or correction is in place and working. It is the requirement of law that correction process of judgments should not only appear to be implemented but also seem to have been properly implemented. Reasons for an order would ensure and enhance public confidence and would provide due satisfaction to the consumer of justice under our justice dispensation system. It may not be very correct in law to say, that there is a qualified duty imposed upon the Courts to record reasons. Our procedural law and the established practice, in fact, imposes unqualified obligation upon the Courts to record reasons. There is hardly any statutory provision under the Income Tax Act or under the Constitution itself requiring recording of reasons in the judgments but it is no more *res integra* and stands unequivocally settled by different judgments of this Court holding that, the courts and tribunals are required to pass reasoned judgments/orders. In fact, Order XIV Rule 2 read with Order XX Rule 1 of the Code of Civil Procedure requires that, the Court should record findings on each issue and such findings which obviously should be reasoned would form part of the judgment, which in turn would be the basis for writing a decree of the Court.

23. By practice adopted in all Courts and by virtue of judge made law, the concept of reasoned judgment has become an indispensable part of basic rule of law and, in fact, is a mandatory requirement of the procedural law. Clarity of thoughts leads to clarity of vision and proper reasoning is the foundation of a just and fair decision. In the case of Alexander Machinery (Dudley) Ltd. (supra), there are apt observations in this regard to say "failure to give reasons amounts to denial of justice." Reasons are the real live links to the administration of justice. With respect we will contribute to this view. There is a rationale, logic and purpose behind a reasoned judgment. A reasoned judgment is primarily written to clarify own thoughts; communicate the reasons for the decision to the concerned and to provide and

> esnsure that such reasons can be appropriately considered by the appellate/higher Court. Absence of reasons thus would lead to frustrate the very object stated hereinabove. The order in the present case is as cryptic as it was in the case of Sunil Kumar Singh Negi (Supra). Being a cryptic order and for the reasons recorded in that case by this Court which we also adopt, the impugned order in the present appeal should meet the same fate."

(5) We, therefore, set aside the judgment of the learned Single Judge and remand the matter to the learned Single Judge with a direction to dispose of the same in accordance with law. However, we have expressed no opinion on the merits of orders dated 14th July, 1987 and 30th January, 1990, because the learned Single Judge had not done so. The setting aside would not be taken as an expression of opinion on the merits of the case. Accordingly, C.W.P. No. 17038 of 1991 be listed before the learned Single Judge in the regular roster on 26th July, 2010. Taking note of a fact that impugned orders relate to the years 1987 and 1990 and the writ petition was filed in the year 1991, we request the learned Single Judge to dispose of the matter not later than three months from the date of first appearance by counsel for the parties.

R.N.R.

Before K. Kannan, J.

MS. PUNITA VERMA,—*Petitioner*

versus

STATE OF HARYANA AND OTHERS,—*Respondents*

C.W.P. 2387 of 2008

18th May, 2010

Constitution of India, 1950—Art. 226—Maharishi Dayanand University Calendar, Volume 3—Rls. 29 and 30—Haryana Affiliated Colleges (Security of Service) Act, 1979—Haryana Affiliated Colleges (Security of Service) Rules, 1993—Rl. 11—Haryana Affiliated Colleges Leave Rules, 2002—Study Leave Rules,—Rl. 8. 126—