Y. SAVARIMUTHU

v.

STATE OF TAMIL NADU & ORS.

(Civil Appeal Nos. 4495-4496 of 2019)

APRIL 30, 2019

[R. F. NARIMAN AND VINEET SARAN, JJ.]

Code of Civil Procedure, 1908 – s.80 – Notice – Appellant-Government Contractor and respondent-State entered into an agreement for strengthening the two-line pavement of NH7 – Dispute arose between the parties – Superintending Engineer partially terminated the contract on the ground that the appellant had not shown progress in the project – Writ petition filed by the appellant was dismissed – Writ appeal was also dismissed – Appellant had issued a legal notice dated 14.01.2000 and two letters on different dates to the respondents prior to the disposal of the writ appeal – After dismissal of the writ appeal, the appellant filed a civil suit against the respondents – Trial Court found substantial compliance of s.80 CPC – However, the High Court found that provisions of s. 80 CPC were not complied with – In appeal, the State contended that no notice was issued u/s. 80 CPC for the reason that none of the three notices/letters of the appellant had stated that they were u/s. 80 CPC – Held: The notice was duly served upon the authorities – Cause of Action was sufficiently set out in the said notice, which was the illegality of the partial termination of the contract – A notice does not have to state the section under which it is made so long as the ingredients of sub-section (3) of s.80 are met – It is admitted that there was no need for any legal notice before filing the writ appeal – The notice, therefore, that was sent on 14.01.2000, was only u/s. 80 CPC in the event the writ appeal failed and a suit would have to be filed – The judgment of the trial Court was correct – Thus, impugned judgment of the High Court set aside and matter remitted back to the High Court to dispose of appeals on merits.

Disposing of the appeals, the Court

HELD: 1. On a perusal of the notice dated 14.01.2000, it is clear that this is a legal notice sent by a lawyer of the appellant to the authorities concerned. It is not disputed that it was by

registered A.D. and served upon the authorities. There is also no dispute that the cause of action is sufficiently set out in the said notice, which is the illegality of the partial termination of the contract on 16.12.1999. It was also made clear that though a Writ Appeal at that point of time was going to be filed against the Writ Petition dismissal, yet this would be a notice to take "appropriate legal action" against the State. There is no doubt, whatsoever, that more than two months have elapsed from the date of this notice, after which the Suit has been filed. In fact, the Suit was filed long after, on 12.09.2002. Quite apart from this, on 29.01.2000 also, the letter of the appellant made it clear to the Divisional Engineer that not only is the partial termination bad in law but that the payments due for work would have to be made. [Para 15] [960-E-G]

2. It is clear, therefore, that there is sufficient compliance with the provisions of Section 80 CPC as has been introduced by the Amendment Act introducing section 80(3) into the Statute book. The respondents' argument that section 80 is not expressly referred to and that the legal notice and letters were written prior to the disposal of the Writ Appeal have no legs to stand on. This is for the reason that a notice does not have to state the section under which it is made so long as the ingredients of sub-section (3) of section 80 are met. It is admitted that there was no need for any legal notice before filing the Writ Appeal. The notice, therefore, that was sent on 14.01.2000, was only under Section 80 CPC in the event the Writ Appeal failed and a Suit would have to be filed. [Para 16] [960-H; 961-A-C]

Dhian Singh Sobha Singh & Another v. Union of India **[1958] SCR 781 ;** *Vithalbhai (P) Ltd. v. Union Bank of India* **(2005) 4 SCC 315 : [2005] 2 SCR 680 ;** *Ghanshyam Dass and Others v. Dominion of India and Others* **(1984) 3 SCC 46 : [1984] 3 SCR 229 ;** *State of A.P. and Others* v. *Pioneer Builders, A.P.* **(2006) 12 SCC 119 : [2006] 6 Suppl. SCR 571 – relied on.**

Case Law Reference

[1958] SCR 781	**relied on**	**Para 11**
[2005] 2 SCR 680	**relied on**	**Para 12**

[1984] 3 SCR 229	**relied on**	**Para 13**	A
[2006] 6 Suppl. SCR 571	**relied on**	**Para 14**	

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 4495-4496 of 2019.

From the Judgment and Order dated 17.06.2015 of the Madurai Bench of Madras High Court in A.S. (MD) No. 141 of 2007 and Cross Appeal (MD) No. 56 of 2009. B

Dr. A. Rajeev B. Masodkar, Ms. Anuradha Mutatkar, Advs. for the Appellant.

Kishor Lambat, M/s. Lambat And Associates, Advs. for the Respondents. C

The Judgment of the Court was delivered by

R. F. NARIMAN, J. 1. Leave granted.

2. The present appeals relate to whether a notice under Section 80 of the Code of Civil Procedure (CPC) has been given to the State of Tamil Nadu in terms of the Section or in substantial compliance thereof. D

3. The appellant is a Government Contractor who has executed various works in the National Highways, P.W.D. and Electricity Board. On 15.10.1997, the appellant and respondent No.2 entered into an agreement for strengthening the existing two-lane pavement of NH7 from a particular kilometer point from Madurai to Kanyakumari. As per the agreement, the work ought to have been completed in 18 months. The site was handed over to the appellant on 20.10.1997, but, in the course of the progress of work, the appellant stated that due to delay caused by the respondents, he was not able to progress and complete the work in time. The immediate reason why the appellant had to knock at the doors of the High Court was an order dated 16.12.1999 passed by the Superintending Engineer partially terminating the contract on the ground that the plaintiff-appellant has not shown sufficient progress in the execution of the said work. The plaintiff-appellant first filed a Writ Petition before the Madras High Court, which, by a judgment dated 24.12.1999, rejected the Writ Petition, stating that an adequate alternative remedy existed in terms of filing of a Civil Suit. This was appealed against by the appellant, which appeal substantially met the same fate E F G H

A by the order dated 10.07.2000, by which the Writ Appeal was dismissed, and it was stated that an adequate alternative remedy existed by way of arbitration.

4. In between the learned Single Judge's judgment and the Division Bench judgment dismissing the Writ Appeal, the appellant sent a legal B notice dated 14.01.2000 in which the appellant made it clear that he had completed the work to the extent of Rs.1,25,00,000/- in spite of delay in approving the pre-level work and fitness of the plant. He also mentioned that the original period of 18 months was extended up to 30.03.2000 for the reason that there was delay on the part of the Department. Despite this, an order of 16.12.1999 was made even before the said extension C came to an end, by which the contract was partially terminated. It was for this reason that he stated that it was necessary for him to have gone to the High Court by way of a Writ Petition. It is further stated that the Writ Petition was dismissed on 24.12.1999 and that the appellant had decided to file a Writ Appeal against the said order. Despite this, however, D the appellant made it clear that the part-termination, even before the expiry of the extended time, is arbitrary and equally arbitrary is the fresh tender that had been called for without issuing any notice to the appellant for which he would take "appropriate legal actions" as available in law, holding the State liable for all costs and consequences. This legal notice was followed by two other letters, one dated 25.01.2000, and the other E dated 29.01.2000. The letter dated 29.01.2000 went on to state that he is challenging the partial termination of the contract and enclosing a list of payments due for the work, which, at that point of time, amounted to a sum of Rs.88.06 lakhs.

5. Since the Writ Appeal had also been dismissed and since the F remedy of arbitration could not be availed of as claims of above Rs.2 lakhs were not arbitrable, but ought to be decided in a Civil Suit, the appellant filed O.S. No. 2/2002 on 12.09.2002 in the Court of the Special Judge at Virudhunagar. After setting out the fact that the partial termination was bad in law, the appellant prayed for a declaration that G the partial termination order dated 16.12.1999 is illegal and void and that a sum of Rs.3.30 crores with interest of 15 per cent per annum be granted to him as these were the amounts owing to him by the State.

6. The learned Additional District Judge by his judgment dated 29.06.2007 found that there was substantial compliance of section 80

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CPC, given the fact that the notice dated 14.01.2000 was clearly sent to the three authorities in question and served on them. Further, the cause of action and reliefs claimed were also substantially set out both in the notice as well as in the letter dated 29.01.2000 already referred to hereinabove.

7. After citing case law, the learned Additional District Judge found that there was a substantial compliance with the provisions of section 80 CPC. On merits, ultimately, the appellant was awarded a sum of Rs.87,01,200/- together with interest at the rate of 6 per cent per annum.

8. Being dissatisfied with the judgment of the learned Additional District Judge, both the appellant as well as the State filed appeals. These appeals were disposed of by the High Court in which the High Court found that the provision of Section 80 CPC was mandatory and that "full particulars" as mentioned by the said provision was not given in the so-called notices that were sent under section 80, and, therefore, allowed the appeal of the State on the preliminary ground itself and stated that the Suit as filed would not be maintainable as it was filed without complying with the provisions of section 80 CPC.

9. Learned counsel appearing on behalf of the appellant has submitted, based on the legal notice together with the letters sent by the appellant, that substantial compliance with section 80 CPC has been made in the present case as was correctly found by the learned Additional District Judge. The High Court went in error in not adverting to substantial compliance of Section 80 but acted as if section 80 was a rigid provision which, like the Laws of the Medes and Persians, could not be bent at all. He cited certain judgments to show that, by the 1976 amendment to the Code of Civil Procedure, section 80(3) was added making it clear that so long as the State was put on notice and properly served, and so long as the cause of action and the prayer in the Suit was substantially communicated, this must be held to be sufficient compliance with the provision.

10. On the other hand, learned counsel appearing on behalf of the State has argued before us that it is clear that there was no notice at all issued under Section 80 CPC for the reason that none of the three notices/ letters relied upon by the appellant had stated that they were under Section 80 CPC. He has also argued that these notices were issued prior to the disposal of the Writ Appeal which was still pending, as a

A result of which, the object of giving a notice, that is for the Government to settle the claim, could not have taken place as it is well-known that the Government can never settle claims which are *sub-judice*. He has also argued that none of the notices were issued after the Writ Appeal was dismissed, which alone could have qualified as notices, if at all, before filing the present Suit. He has also buttressed his submissions with reference to certain decisions of this Court.

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Section 80 CPC is set out as follows:

"80.Notice.-

C (1) Save as otherwise provided in sub-section (2), no suits shall be instituted against the Government(including the Government of the State of Jammu & Kashmir) or against a public officer in respect of any act purporting to be done by such officer in his official capacity, until the expiration of two months next after notice in writing has been delivered to, or left at the office of-

D (a) in the case of a suit against the Central Government, except where it relates to a railway, a Secretary to that Government;

(b) in the case of a suit against the Central Government where it relates to railway, the General Manager of that railway;

E (bb) in the case of a suit against the Government of the State of Jammu and Kashmir the Chief Secretary to that Government or any other officer authorised by that Government in this behalf;

(c) in the case of a suit against any other State Government, a Secretary to that Government or the Collector of the district;

F and, in the case of a public officer, delivered to him or left at this office, stating the cause of action, the name, description and place of residence of the plaintiff and the relief which he claims; and the plaint shall contain a statement that such notice has been so delivered or left."

G (2) A suit to obtain an urgent or immediate relief agianst the Government (including the Government of the State of Jammu & Kashmir) or any public officer in respect of any act purporting to be done by such public officer in his official capacity, may be instituted, with the leave of the Court, without serving any notice as required by sub-section (1); but the Court shall not grant relief

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in the suit, whether interim or otherwise, except after giving to the Government or public officer, as the caes may be, a resaonable opportunity of showing cause in respect of the relief prayed for in the suit:

Provided that the Court shall, if it is satisfied, after heairng the parties, that no urgent or immediate relief need be granted in the suit, return the plaint for presentation to it after complying with the requirements of sub-section (1).

(3) No suit instituted agianst the Government or against a public officer in respect of any act purporting to be done by such public officer in his official capacity shall be dismissed merely by reason of any error or defect in the notice referred to in sub-section (1), if in such notice-

(a) the name, description and the residence of the plaintiff had been so given as to enable the appropriate authority or the public officer to identify the person serving the notice and such notice had been delivered or left at the office of the appropriate authority specified in sub-section (1), and

(b) the cause of action and the relief claimed by the plaintiff had been substantially indicated."

11. Even at a time when Section 80(3) was not available, this Court in *Dhian Singh Sobha Singh & Another* v. *Union of India,* (1958) SCR 781 made it clear that Section 80, which must be strictly complied with, cannot be construed in a pedantic manner completely divorced from common sense.

"We are constrained to observe that the approach of the High Court to this question was not well founded. The Privy Council no doubt laid down in *Bhagchand Dagadusa* v. *Secretary of State* [(1927) L.R.54 I.A. 338] that the terms of this section should be strictly complied with. That does not however mean that the terms of the notice should be scrutinized in a pedantic manner or in a manner completely divorced from common sense. As was stated by Pollock C. B. in *Jones* v. *Nicholls* [(1844) 13 M.&W. 361, 363; 153 E.R. 149, 150] "We must import a little common sense into notices of this kind." Beaumont C.J. also observed in *Chandu Lal Vadilal* v. *Government of Bombay* [I.L.R. [1943] Bom.128] : "One must construe section 80 with some regard to common

A sense and to the object with which it appears to have been passed....." If the terms of the notice in question be scrutinized in this manner it is abundantly clear that the relief claimed by the appellant was the re-delivery of the said two trucks or in the alternative payment of Rs.3,500 being the value thereof. The value which was placed by the appellants on the trucks was the then value according to them - a value as on August 1, 1942, the date on which the delivery of the trucks ought to have been given by the respondent to the appellants. The appellants could only have demanded that sum as on the date of that notice. They could not sensibly enough have demanded any other sum. If the respondent had complied with the terms of that notice then and there and re-delivered the trucks to the appellant, nothing further needed to be done. If on the other hand instead of re-delivering the trucks it paid to the appellant the value thereof then also it need not have paid anything more than Rs.3,500 to the appellant, on that alternative. If, however, the respondent failed and neglected to comply with the requisitions contained in that notice the appellants would certainly be entitled to recover from the respondent the value of the said trucks in the alternative on the failure of the respondent to re-deliver the same to the appellants in accordance with the terms of the decree ultimately passed by the Court in their favour. That date could certainly not be foreseen by the appellants and it is contrary to all reason and common sense to expect the appellants to have made a claim for the alternative value of the said two trucks as of that date. The respondent was and ought to have been well aware of the situation as it would develop as a result of its non-compliance with the terms of that notice and if on January 8, 1943, the appellants in the suit which they filed for wrongful detention of the said trucks claimed re-delivery of the said trucks or in the alternative Rs.3,500 as their value and reserved their right to claim the further appreciation in the value of the trucks by reason of the rise in prices thereof up to the date of the decree by paying additional court-fee in that behalf, it could not be laid at their door that they had not made the specific demand in their notice to the respondent under s.80 of the Code of Civil Procedure and that therefore their claim to recover anything beyond Rs.3,500 was barred under that section. A common sense reading of the notice under s.80 would lead any

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Court to the conclusion that the strict requirements of that section had been complied with and that there was no defect in the same such as to disentitle the appellants from recovering from the respondent the appreciated value of the said two trucks as at the date of the judgment. It is relevant to note that neither was this point taken by the respondent in the written statement which it filed in answer to the appellants' claim nor was any issue framed in that behalf by the Trial Court and this may justify the inference that the objection under s.80 had been waived. The point appears to have been taken for the first time before the High Court which negatived the claim of the appellants for the appreciated value of the said trucks."

12. In *Vithalbhai (P) Ltd.* v. *Union Bank of India,* (2005) 4 SCC 315, this Court, in paragraph 10, cited certain judgments which made it clear that the object of the said Section is the advancement of justice and the securing of public good by avoidance of unnecessary litigation.

"10.Under Section 80 CPC no suit shall be instituted against the Government or a public officer until the expiration of two months next after service of notice in writing in the manner set out in the provision and if filed before the expiry of said period, the suit is not maintainable because there is clearly a public purpose underlying the provision. "The object of the section is the advancement of justice and the securing of public good by avoidance of unnecessary litigation" (*See Bihari Chowdhary* v. *State of Bihar* (1984) 2 SCC 627*)*. In *Butchiraju (Vaddadi)* v. *Doddi Seetharamayya* (AIR 1926 Mad 377) the suit was for a sum of money which had not become payable on the date of the suit but became payable since. Viswanatha Sastri, J. (as His Lordship then was) held that the Court could pass a decree for the recovery of money. Reliance was placed on a Full Bench decision in *A.T. Raghava Chariar* v. *O.M. Srinivasa Raghava Chariar* (ILR (1917) 40 Mad 308) and a few other cases. Here, in all fairness, it may be mentioned that in *Rangayya Naidu (Mylavarapu)* v. *Basana Simon* (AIR 1926 Mad 594)*,* Spencer, J. has held that if a suit is premature at the date of institution, though not at the date of decision, a decree cannot be granted and the only course in such cases is to dismiss the suit with liberty to bring a fresh suit

upon a proper cause of action. It is pertinent to note that *Butchiraju case* was decided on 5-10-1925 while *Rangayya Naidu* case was decided on 7-10-1925 but the former decision though of a prior date was not brought to the notice of the Court deciding the latter case."

13. In *Ghanshyam Dass and Others* v. *Dominion of India and Others,* (1984) 3 SCC 46, this Court went into the amendment made by the Law Commission and stated:

"17. Section 80 of the Code is but a part of the Procedure Code passed to provide the regulation and machinery, by means of which the courts may do justice between the parties. It is therefore merely a part of the adjective law and deals with procedure alone and must be interpreted in a manner so as to subserve and advance the cause of justice rather than to defeat it. In *Sangram Singh* v. *Election Tribunal, Kotah* (1955) 2 SCR 1 Vivian Bose, J. in his illuminating language dealing with the Code of Civil Procedure said :

> It is *procedure,* something designed to facilitate justice and further its ends: not a penal enactment for punishment and penalties; not a thing designed to trip people up. Too technical a construction of sections that leaves no room for reasonable elasticity of interpretation should therefore be guarded against (provided always that justice is done to *both* sides) lest the very means designed for the furtherance of justice be used to frustrate it.

18. Our laws of procedure are based on the principle that "as far as possible, no proceeding in a court of law should be allowed to be defeated on mere technicalities". Here, all the requirements of Section 80 of the Code were fulfilled. Before the suit was brought, the Dominion of India received a notice of claim from Seth Lachman Dass. The whole object of serving a notice under Section 80 is to give the Government sufficient warning of the case which is going to be instituted against it (*sic* so) that the Government, if it so wished, (*sic* can) settle the claim without litigation or afford restitution without recourse to a court of law. That requirement of Section 80 was clearly fulfilled in the facts and circumstances of the present case.

19. It is a matter of common experience that in a large majority of cases the Government or the public officer concerned make no use of the opportunity afforded by the section. In most cases the notice given under Section 80 remains unanswered till the expiration of two months provided by the section. It is also clear that in a large number of cases, as here, the Government or the public officer utilised the section merely to raise technical defences contending either that no notice had been given or that the notice actually given did not comply with the requirements of the section. It is unfortunate that the defendants came forward with a technical plea that the suit was not maintainable at the instance of the plaintiffs, the legal heirs of Seth Lachman Dass, on the ground that no fresh notice had been given by them. This was obviously a technical plea calculated to defeat the just claim. Unfortunately, the technical plea so raised prevailed with the High Court with the result that the plaintiffs have been deprived of their legitimate dues for the last 35 years.

20. The Law Commission in the Fourteenth Report, Volume 1 on the Code of Civil Procedure, 1908 at p. 475 made a recommendation that Section 80 of the Code should be deleted. It was stated as follows:

> The evidence disclosed that in a large majority of cases, the Government or the public officer made no use of the opportunity afforded by the section. In most cases the notice given under Section 80 remained unanswered till the expiry of the period of two months provided by the section. It was also clear that in a large number of cases, governments and public offices utilised the section merely to raise technical defences contending either that no notice had been given or that the notice actually given did not comply with the requirements of the section. These technical defences appeared to have succeeded in a number of cases defeating the just claims of the citizens.

21. The Law Commission in the Twenty-Seventh Report on the Code at pp.21-22 reiterated its earlier recommendation for deletion of Section 80 and in the Fifty-Fourth Report at p.56 fully concurred with the recommendation made earlier. In conformity with the recommendation of the Law Commission, Section 80 has

A undergone substantial changes. By Section 27 of the Code of Civil Procedure (Amendment) Act, 1976 which was brought into effect from February 1, 1977, the existing Section 80 has been renumbered as Section 80(1) and sub-sections(2) and (3) have been inserted. Sub-section (2) as inserted has been designed to give an urgent and immediate relief against the Government or the public officer with the leave of the court. But the court shall not grant relief in the suit, whether interim or otherwise, except after giving to the Government or public officer, as the case may be, a reasonable opportunity of showing cause in respect of the relief prayed for in the suit. Proviso to sub-section (2) enjoins that the court shall, if it is satisfied, after hearing the parties that no urgent or immediate relief need be granted in the suit, return the plaint for presentation to it after complying with the requirements of sub-section (1).

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23. By sub-section (3), Parliament has brought in the rule of substantial compliance. The present suit would be directly covered by sub-section (3) of Section 80 so introduced if the suit had been brought after February 1, 1977. Unfortunately for the plaintiffs, Section 97 of the Amendment Act provides that the amendment shall not apply to pending suits and the suits pending on February 1, 1977 have to be dealt with as if such amendment had not been made. Nevertheless the courts must have due regard to the change in law brought about by sub-section (3) of Section 80 of the Code introduced by the Amendment Act w.e.f. February 1, 1977. Such a change has a legislative acceptance of the rule of substantial compliance laid down by this Court in *Dhian Singh Sobha Singh* (1958) SCR 781 and *Raghunath Dass* (1969) 1 SCR 450. As observed in *Dhian Singh Sobha Singh case*, one must construe Section 80 with some regard to common sense and to the object with which it appears to have been enacted. The decision in *S.N. Dutt* v. *Union of India* case (1962) 1 SCR 560, does not accord with the view expressed by us and is therefore overruled."

14. In another recent judgment in *State of A.P. and Others* v. *Pioneer Builders, A.P.,* (2006) 12 SCC 119, this Court again referred to the Law Commission Report and held as follows:

"14. From a bare reading of sub-section (1) of Section 80, it is plain that subject to what is provided in sub-section (2) thereof, no suit can be filed against the Government or a public officer unless requisite notice under the said provision has been served on such Government or public officer, as the case may be. It is well-settled that before the amendment of Section 80 the provisions of unamended Section 80 admitted of no implications and exceptions whatsoever and are express, explicit and mandatory. The Section imposes a statutory and unqualified obligation upon the Court and in the absence of compliance with Section 80, the suit is not maintainable. (See: *Bhagchand Dagadusa* v. *Secretary of State for India in Council* AIR 1927 P.C. 176; *Sawai Singhai Nirmal Chand* v. *Union of India* (1966) 1 SCR 986 and *Bihari Chowdhary* v. *State of Bihar* (1984) 2 SCC 627). The service of notice under Section 80 is, thus, a condition precedent for the institution of a suit against the Government or a public officer. The legislative intent of the Section is to give the Government sufficient notice of the suit, which is proposed to be filed against it so that it may reconsider the decision and decide for itself whether the claim made could be accepted or not. As observed in *Bihari Chowdhary*, the object of the Section is the advancement of justice and the securing of public good by avoidance of unnecessary litigation.

15. It seems that the provision did not achieve the desired results inasmuch as it is a matter of common experience that hardly any matter is settled by the Government or the public officer concerned by making use of the opportunity afforded by said provisions. In most of the cases, notice given under Section 80 remains unanswered. In its 14th report (reiterated in the 27th and 54th Reports), the Law Commission, while noting that the provisions of this section had worked a great hardship in a large number of cases where immediate relief by way of injunction against the Government or a public officer was necessary in the interests of justice, had recommended omission of the Section. However, the Joint Committee of Parliament, to which the Amendment Bill 1974 was referred, did not agree with the Law Commission and recommended retention of Section 80 with necessary modifications/relaxations.

A 16. Thus, in conformity therewith, by the Code of Civil Procedure (Amendment) Act, 1976 the existing Section 80 was renumbered as Section 80(1) and sub-sections (2) and (3) were inserted with effect from 1-2-1977. Sub-section (2) carved out an exception to the mandatory rule that no suit can be filed against the Government or a public officer unless two months' notice has been served on B such Government or public officer. The provision mitigates the rigours of sub-section (1) and empowers the Court to allow a person to institute a suit without serving any notice under sub-section (1) in case it finds that the suit is for the purpose of obtaining an urgent and immediate relief against the Government or a public C officer. But, the Court cannot grant relief under the sub- section unless a reasonable opportunity is given to the Government or public officer to show cause in respect of the relief prayed for. The proviso to the said sub-section enjoins that in case the Court is of the opinion that no urgent and immediate relief should be granted, it shall return the plaint for presentation to it after complying D with the requirements of sub-section (1). Sub-section (3), though not relevant for the present case, seeks to bring in the rule of substantial compliance and tends to relax the rigour of sub-section (1)."

E 15. On a perusal of the notice dated 14.01.2000, it is clear that this is a legal notice sent by a lawyer of the appellant to the authorities concerned. It is not disputed that it was by registered A.D. and served upon the authorities. There is also no dispute that the cause of action is sufficiently set out in the said notice, which is the illegality of the partial termination of the contract on 16.12.1999. It was also made clear that F though a Writ Appeal at that point of time was going to be filed against the Writ Petition dismissal, yet this would be a notice to take "appropriate legal action" against the State. There is no doubt, whatsoever, that more than two months have elapsed from the date of this notice, after which the Suit has been filed. In fact, the Suit was filed long after, on 12.09.2002. Quite apart from this, on 29.01.2000 also, the letter of the G appellant made it clear to the Divisional Engineer that not only is the partial termination bad in law but that the payments due for work would have to be made.

16. It is clear, therefore, that there is sufficient compliance with the provisions of Section 80 CPC as has been introduced by the H

Amendment Act introducing section 80(3) into the Statute book. The respondents' argument that section 80 is not expressly referred to and that the legal notice and letters were written prior to the disposal of the Writ Appeal have no legs to stand on. This is for the reason that a notice does not have to state the section under which it is made so long as the ingredients of sub-section (3) of section 80 are met. It is admitted that there was no need for any legal notice before filing the Writ Appeal. The notice, therefore, that was sent on 14.01.2000, was only under Section 80 CPC in the event the Writ Appeal failed and a Suit would have to be filed.

17. We are, therefore, of the view that the learned Additional District Judge's judgment was correct. In this view of the matter, we set aside the impugned judgment of the High Court and remit the matter to the High Court to dispose of the two appeals on merits. Further, considering this is a Suit of the year 2002, we request the High Court to take up these appeals and dispose of the same at the earliest.

18. The appeals stand disposed of accordingly.

Ankit Gyan Appeals disposed of.