

**CASE COMMENT: K.K. Velusamy v. N. Palanisamy (2011) 11 SCC 275**

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**Damita\*****INTRODUCTION**

The Indian judiciary plays a salient role in ensuring justice and promoting welfare by interpreting and applying the law to resolve disputes. As a procedural law, the Code of Civil Procedure stipulates the process that Civil Courts must follow when enforcing justice between the parties. However, no legislation, act or enactment can possibly cover every scenario that could arise. Therefore, the courts are granted complementary powers, termed inherent powers, to address emerging situations of a specific kind, and they are free to use these powers to uphold the integrity of the legal system or to stop abuses of the court system. Inherent powers can be defined as the characteristics one is born with. These are not conferred by any state but these are the powers that are already with the court. The inherent powers of the court extend beyond the authority explicitly bestowed by the Code of Civil Procedure<sup>1</sup>. These are the powers that are typically not explicitly specified by the Code but are nevertheless granted to the court. If the Code of Civil Procedure does not contain any specific provisions, these powers may be used *ex debito justitiae*, or as of right. The inherent authority of the court to issue orders that may be required to further justice or guard against judicial abuse is defined in Section 151 of the Code of Civil Procedure. Section 148 to 153A of the Code of Civil Procedure relates to the inherent power of courts which includes aspects of time enlargement, transfer of business, amendment of judgments, decrees or orders and general power to amend among many others. The principle of inherent powers of the court was upheld in the case of K.K. Velusamy v. N. Palanisamy (2011) 11 SCC 275. According to the Supreme Court, courts have the innate authority to revoke their own rulings in order to uphold the rule of law or avoid procedural abuse. The court stressed that inherent powers should only be used when the Code of Civil Procedure lacks a specific provision to address the circumstance.

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<sup>1</sup> Paliwala M, 'Inherent Powers of the Court under Civil Procedure Code, 1908' (*iPleaders*, 28 January 2022) <<https://blog.ipleaders.in/inherent-powers-of-the-court/#Conclusion>>

## FACTS OF THE CASE

The defendant filed a lawsuit to obtain specific performance under a contract for ₹2,40,000, of which ₹1,60,000 had already been paid in advance. When the remaining funds were received in three months, the appellant agreed to sign the sale deed. As a result, the appellant did not show up while the respondent was at the Sub-Registrar's office awaiting the aforementioned execution. The respondent claimed that because of these circumstances, both the interest and specific performance of the contract were due<sup>2</sup>.

## ISSUE OF THE CASE

Were there any registered agreements of sale between the appellant and the defendant?

Does the Code of Civil Procedure's Section 151 permit courts to grant requests for the reopening of evidence and the calling of witnesses?

## ARGUMENTS PRESENTED BY THE PETITIONER AND RESPONDENT

The appellant argued that a loan of ₹1,50,000 was taken from the respondent, a moneylender, instead of blank signed documents signed by the appellant. A compact disc with call recordings and electronically recorded evidence between the appellant, respondent, and three other parties to the case was presented by the appellant. These recordings were used as evidence to support the claim that the sale agreement served only as a loan security. The applicant claimed that these call recordings were made with the help of three case participants and mimic artists and that the electronically presented evidence was false and argued that the application was an attempt to delay the process.

## JUDGMENT

The trial court refused to allow the evidence because it had already been submitted by both sides and the application would only cause further delay as the arguments had already been concluded. The High Court took the same stance.

On appeal to The Supreme Court, the High Court's and Trial Court's decisions to reject the application under Section 151 of the Code were overturned. The Supreme Court ruled that neither the trial court nor the High Court had taken into account whether the evidence that was

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<sup>2</sup> (K.K. Velusamy vs N. Palaanisamy on 30 March, 2011) <<https://indiankanoon.org/doc/1126109/>>

requested to be admitted would help to clarify the matter at hand. The application was automatically rejected on the grounds that the case had reached its conclusion and the arguments had been made. Furthermore, it was declared that, after being satisfied that the compact disc could not have been presented earlier, the trial court had the right to exercise its discretionary powers under Section 151 of the Criminal Procedure Code to accept the application for its admission<sup>3</sup>. Prior to approving or disapproving the admissions application, the court may also hear the recordings. Thus, based on the decision in this case, the trial court was directed to hear the case.

### CASE COMMENT

In the absence of a specific provision, the court may exercise its inherent powers, which are in addition to those expressly granted, under Section 151 of the Code, provided that doing so does not conflict with the express language of the code or the legislative intent. Reopening evidence for additional examination-in-chief or cross-examination is not permitted by the Code. Section 151 guarantees the preservation of the court's inherent authority to issue orders that are required to uphold justice or stop the abuse of court procedures.

If there is no express clause permitting the reopening of evidence or calling witnesses for additional questioning, apart from in situations where the court requests clarifications, the court may, subject to the restrictions of Section 151, use its inherent authority to permit such actions. Order 18 Rule 17, which permits the recall of witnesses only for the purpose of clarification, does not supersede the court's inherent authority. Since there are no laws governing this kind of situation, the discretion of the court based on the particulars of each case must be used with extreme caution when using this inherent power. It is not appropriate to interpret inherent power and the lack of an explicit clause in the Code as authorisation to provide relief without restrictions<sup>4</sup>. It is essential to note that the word “nothing” has been used under Section 151 and not the term “notwithstanding” which indicates that the courts are not authorised to act outside the scope of civil procedure i.e., not aligning with the principles of civil procedure,

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<sup>3</sup> Team C, ‘K K Velusamy vs N Palanisamy: Consideration of Call Recordings Is a Relevant Fact, and Admitting Them as Evidence under Section 151 of CPC Is Permissible - Others’ (*lawyersclubindia*, 13 July 2021) <<https://www.lawyersclubindia.com/judiciary/k-k-velusamy-vs-n-palanisamy-consideration-of-call-recordings-is-a-relevant-fact-and-admitting-them-as-evidence-under-section-151-of-cpc-is-permissible-5287.asp>>

<sup>4</sup> (*K.K. Velusamy vs N. Palaanisamy on 30 March, 2011*) <<https://indiankanoon.org/doc/1126109/>>

thereby it is non-obstante. The courts have the inherent power to ensure the ends of justice and to prevent abuse of the judicial process while not being contradictory to the civil procedure.

Order 18 Rule 17A previously permitted the admission of new evidence in cases where it was not previously known or could not be presented even with great effort. But in 2002, this clause was eliminated. The removal of it does not mean that no evidence can be admitted after a party has concluded its case; rather, it represents the updated Code's goal of minimising the amount of time that passes between the start of arguments and the conclusion of the evidence. In order to stop parties from abusing the provision to postpone proceedings in the name of finding new evidence, it was also removed. If there is no other provision that addresses the matter, the applicant's intent is clear, using the authority bestowed by Section 151 would serve the purposes of fairness and prevent abuse of the court system, and it should be used with caution.

In cases where the Civil Procedure Code (CPC) does not specifically address a particular issue, the inherent powers bestowed upon the court by the CPC are essential in guaranteeing that justice is done. Courts are empowered by Section 151 of the CPC to take appropriate action to stop the abuse of the legal system. This authority is limited, though. These innate powers cannot be used by courts to disregard or contradict particular CPC provisions, nor can they be used in situations where there are other available legal remedies. The maintenance of justice must be the first priority when using these powers, thus care and good judgement are required.

In essence, the court's inherent authority serves as an addition to the CPC, allowing it to intervene in extraordinary and unanticipated circumstances where strict compliance to the rules of procedure might not produce a just result. They support the court's intervention in ways that preserve established legal norms' sanctity while upholding justice. These powers are primarily intended to reduce needless litigation, prevent repeated court cases concerning the same matter, and guarantee that all parties to a dispute receive full justice.

Inherent powers provide courts the ability to act in unusual circumstances, which can help them settle disputes that might otherwise go unresolved because of holes in the legal system. These powers, while strengthening the court's capacity to administer justice, have defined limits that guarantee their use only in dire circumstances and in a manner that does not interfere with the CPC's established legal framework<sup>5</sup>. All things considered, the court's inherent powers are

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<sup>5</sup> Agrawal A, 'Inherent Powers of Court under CPC' (*LawBhoomi*, 10 August 2024)  
<<https://lawbhoomi.com/inherent-powers-of-court-under-cpc/#Conclusion>>

essential to preserving a balance between rigid legal processes and the court's duty to guarantee justice is served in every instance, even in cases where the law makes no express provision for the circumstance at hand.

