
(1991) 03 KAR CK 0041
In the Karnataka High Court
Case No : CRP No. 1448/1991

Anegere Mandal Panchayat APPELLANT
Vs
Sri Nanjundappa and Another RESPONDENT

Date of Decision : 22-03-1991

Acts Referred:

Citation : (1991) 2 KarLJ 115

Hon'ble Judges : M. P. Chandrakantharaj Urs, J

Judgement

Chandrakantharaj Urs., J.-This revision petition is by the Anegere Mandal Panchayat, by its Pradhan. The said Mandal Panchayat made an application purporting to be one under Order 1, Rule 10(2) of the CPC to implead the Mandal Panchayat as a party in the suit. The said suit OS No. 64/1991 on the file of the Munsiff at Kadur was filed by one Nanjundappa naming the defendant-Secretary, Mandal Panchayat, Anegere, Singatagere Hobli, Kadur Taluk. It appears from the averments made that the Secretary colluded with the plaintiff and allowed certain documents to come into existence and also an ex-parte decree to be passed. It was in that circumstance, the Mandal Panchayat resolved to authorise the Pradhan to make the application to implead the Panchayat as the party which has come to be rejected by the Court inter alia on the ground that the applicant failed to make out a ground for impleading under Rule 10(2) of Order 1 of the CPC. In the result, it dismissed the application. In the course of its order, it made the observation that any default committed by the Secretary in defence of the suit shall be dealt with departmentally and not by seeking an impleading application.

2. Though the reason given by the learned Munsiff is not wholly accurate, the conclusion reached by him is correct. He has committed no illegality or error of jurisdiction. The relief asked for in the suit is against the Mandal Panchayat. Under the Karnataka Mandal Panchayats (Secretary's Powers and Duties) Rules, 1986, it is the Secretary who has to defend or prosecute actions against the Panchayat. It is a statutory obligation cast on him in addition to other duties and powers conferred by the Zilla Parishat Act or any other law for the time being in force.

3. The application, in effect was to substitute Pradhan in place of Secretary. That could not have been done as it would be opposed to the statutory rules. The only remedy open to the Panchayat was to seek review of that order or restoration of that ex-parte order pleading fraud as a ground which has already been pleaded in the application now dismissed by the learned Munsiff and seek such further assistance from the Zilla Parishat under the Act which may become necessary to meet the ends of justice.

4. Subject to the observations, this revision petition is dismissed as there is no merit in the revision petition.