

(2001) 02 KAR CK 0008

In the Karnataka High Court

Case No : Civil Revision Petition No. 3004 of 1999

Canara Bank, Sindhanur Branch

APPELLANT

Vs

Sharanabara and Others

RESPONDENT

Date of Decision : 23-02-2001

Acts Referred:

Citation : (2001) 2 KCCR 1199

Hon'ble Judges : T.N. Vallinayagam, J

Bench : Single Bench

Advocate : Shantesh Gureddi, for the Appellant;

Final Decision : Dismissed

Judgement

T.N. Vallinayagam, J.—This Civil Revision Petition is taken up for final hearing though it is coming on for admission.

2. This Civil Revision Petition is preferred by the Bank- Plaintiff against the order of the Court below declining to refund the Court fee. It appears that a memo on 24.5.1999 was filed informing the Court that the suit has been settled out of Court and the prayer was made to refund of half Court fee. The Court declined to grant half Court fee on the ground that the Defendants have not put in appearance. This view is erroneous in the eye of law. As rightly pointed out by the learned Counsel for the appellant Section 66 speaks about the Court fee which is as follows:

REFUND ON SETTLEMENT BEFORE HEARING WHENEVER BY AGREEMENT OF PARTIES:

- a) any suit is dismissed as settled out of Court before any evidence has been recorded on the merits of claim; or
- b) any suit is compromised ending in a compromise decree before any evidence has been recorded on the merits of the claim; or

c) any appeal is disposed of before the commencement of hearing of such appeal, half of the amount of all fees paid in respect of the claim in the suit or appeal shall be ordered by the Court to be refunded to the parties by whom the same have been respectively paid.

3. Learned Counsel also relied upon the dictum of this Court in P.B. Rai Vs. Reza Jalali, to the following effect:

The Court which before recording evidence on merits of the claim in the suit, dismiss such suit as settled out of Court, shall not refuse to order refund the suitor half of the Court fee paid on the claim in the suit.

Following the above dictum of this Court and considering the rule, I hold that whenever the suit is settled out of Court, the Plaintiff is entitled to half Court fee. Non-grant of half Court fee is error apparent on the face of the record. Therefore, the same is set aside and the Civil Revision Petition is dismissed.