

(2004) 06 KAR CK 0023
In the Karnataka High Court
Case No : CRP No. 4236 of 2001

G.N. Narayana

APPELLANT

Vs

K. Sheshagiriappa, since deceased by his LRs and Others

RESPONDENT

Date of Decision : 14-06-2004

Acts Referred:

Karnataka Irrigation Act, 1965 — Section 69 (5)

Citation : (2004) ILR (Kar) 3662 : (2004) 4 KCCR 410 SN

Hon'ble Judges : Mohan Shantanagoudar, J

Bench : Single Bench

Advocate : Girish Kodgi, for the Appellant; B.H. Shamanna, for R1 A, B, D, E, F, G, for the Respondent

Judgement

Mohan Shantanagoudar, J.—This Civil Revision Petition is filed against the order dated 13.9.2001 passed by the Civil Judge (Jr. Dn.), Koppa, in O.S. No. 30/1995 on issue No. 4. By the impugned order, the Court below has held that the suit is not barred u/s 69(5) of the Karnataka Irrigation Act. The case of the plaintiffs is that the plaintiffs and the defendants are the adjoining land owners and the plaintiffs are drawing water continuously from the channel since more than 100 years. As the defendants blocked the said water passage, the suit in O.S. No. 30/1995 is filed for the following reliefs:

" a) A declaration that the plaintiffs have acquired a right of easement by prescription to conduct water from the stream to their wet lands described in plaint schedule lands A to C through the channel "OPQR" existing on the western side of the plaint schedule "D" land.

b) A permanent injunction restraining the defendant, his workmen and agents from closing the channel "OPQR" or in any manner obstructing the flow of water in the said channel."

2. Looking to the averments made in the plaint, as well as, the reliefs claimed, the same cannot be decided by the Irrigation Officer under the provisions of

Irrigation Act. The Irrigation Officer cannot determine the easementary rights of the parties and also cannot grant permanent injunction. Under such circumstances, I do not find any illegality in the order passed by the Court below. Petition is therefore dismissed.