
(1983) 04 KAR CK 0008
In the Karnataka High Court
Case No : WP 7648/83

Gurusiddappa, G.N.

APPELLANT

Vs

Circle Inspector of Police, Arasikere and Another

RESPONDENT

Date of Decision : 21-04-1983

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1983) 2 KarLJ 329

Hon'ble Judges : K. S. Puttaswamy, J

Judgement

1. Among others, the petitioner claims to be the owner of a godown/shop situated on site Nos. 65 and 66 "B" Type of the Arasikere Agricultural Produce Market yard area of Arasikere of Hassan Dist. The petitioner has alleged that he purchased the same on 17-7-1980 from its previous owner one Sri B.K. Nagaraja Setty of Arasikere and is carrying on his business therein from that date.

2. On a complaint made by the previous owner Nagaraja Setty, the Circle Inspector of Police, Arasikere-Respondeat.1-(hereinafter called "the CI") visited the godown on 6-4-1983, has locked and sealed the same in proof of which he has drawn up a panchanama thereto and has delivered a copy of the same to the petitioner. The reason for the extraordinary, unusual and unauthorised step taken is stated by the C.I. in the panchanama (Annexure-A) in these words:

In the panchanama, the CI has directed the petitioner and the previous owner not to break open the lock and enter the premises. Aggrieved by this action, the petitioner has moved this Court under Art. 226 of the Constitution seeking appropriate relief.

3. The petitioner has asserted that he was the owner of the godown and was in lawful possession of the same and the action of the C.I. was wholly unauthorised and illegal.

4. Sri K. Chandrashekhar, learned counsel for the petitioner, contends that the dispute, if any, between his client and his vendor, was a civil dispute and the CI

had no jurisdiction and power to interfere with the same, lock and seal the premises under any law of the land.

5. Sri Venkatachaliah, learned High Court Government. Pleader, in justifying the action of the C.I. urged that in any event it would be proper for the Court to direct the petitioner to approach the C.I. or his superior officers for relief.

6. Whether the petitioner is the owner of the godown as asserted by him or that some other person is the owner of the same, the civil dispute, if any, thereto cannot be properly examined and decided by Police as also by this Court in this proceeding can hardly be doubted.

7. According to the very panchanama (Annexure-A) it is seen that the petitioner was in actual possession of the godown on the date and the time the C.I. visited, locked and sealed the same.

8. The Karnataka Police Act, CrI.PC or any other law that is administered by the Police officers and officials of the department does not authorise them to lock and seal the premises of a person even if there is a dispute between that person and another person. In this view, the action of the C.I. was wholly unauthorised and illegal. I am pained add surprised that a senior police officer holding the rank of a C.I. should have committed a high handed and illegal act against a citizen who was carrying on his lawful business in the godown. I do hope that C.I. will not repeat the same in future.

9. On the facts of the case and the legal position which is clear beyond a shadow of doubt, it would not be proper, if this Court decline to exercise its extraordinary jurisdiction and direct the petitioner to approach the C.I. or his superior officer for relief. Any such direction would only destroy the faith of the people in this Court. I, therefore, reject the alternative course suggested by Sri Venkatachaliah.

10. On the above discussion, it follows that the petitioner is entitled for a writ of mandamus to respondent 1 to open the lock and deliver possession of the same forthwith.

11. In the light of the above discussion, I issue a writ in the nature of mandamus to respondent 1 to forthwith remove the seal, open the lock and deliver the key of the lock to the petitioner under proper acknowledgment in the presence of two respectable witnesses of the area. But in the circumstances of the case, I direct the parties to bear their own costs.

12. Let a copy of this order be communicated to respondent 1 forthwith. Let another copy of this order be also simultaneously furnished to the learned Government Pleader.

13. Sri Venkatachaliah, learned High Court Government Pleader, is permitted to file his Memo of Appearance for the respondents within 15 days from today.