
(1977) 02 KAR CK 0014
In the Karnataka High Court

Meghraj and Others

APPELLANT

Vs

B. Seshagiri Rao

RESPONDENT

Date of Decision : 28-02-1977

Acts Referred:

Transfer of Property Act, 1882 — Section 106

Citation : AIR 1977 Kar 163 : (1977) ILR (Kar) 881 : (1977) 1 KarLJ 266

Hon'ble Judges : K. Jagannatha Shetty, J

Bench : Single Bench

Advocate : S. Shivaswamy, for the Appellant; K.L.N. Rao, for the Respondent

Judgement

1. The sole question raised in this revision petition relates to the validity of the quit notice issued by the petitioners.

2. The facts which are not now in dispute are:

The respondent has taken the premises for opening a shop called "Planters Coffee Works" in which he is engaged in selling coffee powder. His establishment has been registered as a "Small Scale Industry". He has got two motors of 2 H. P. each. He purchases coffee seeds, roasts them in the roaster machine and grinds them into powder in the grinding machine and sells the same to the customers. The petitioners, with a view to take possession of the premises, determined the tenancy and called upon the respondent to surrender possession by giving him fifteen days time. The respondent contended that he has been engaged in the manufacture of coffee powder and, therefore, entitled to six months notice. Both the Courts have upheld the contention and dismissed the application for eviction.

3. This Court in John Augustine Peter Mirande v. N. Datha Naik 1971 (2) Mys LJ 204 : AIR 1971 Mys 365, has observed at page 207 as follows:

"In common parlance "to manufacture goods" means "to bring goods into being." The essence of manufacture is the changing of one object into another

for the purpose of making it marketable. Therefore, the proper approach for ascertaining the meaning or expression of the word "manufacture" is to see in the context in which it is used."

In *Allenbury Engineers Pvt. Ltd. Vs. Ramkrishna Dalmia and Others*, , Shelat J., speaking for the Court, observed at page 427 as follows:

"The expression "manufacturing purposes" in S. 106 is used in its popular and dictionary meaning, the

T. P. Act not having supplied any dictionary of its own for that expression. The burden of proving that the lease was for manufacturing purpose, must for the purpose of S. 106 of the T. P. Act, lie on the party who claims it to be so, in the present case the appellant company. That burden is to establish that the exclusive or at least the dominant purpose of the lease was the manufacturing purpose.

xx xx xx The word "manufacture", according to its dictionary meaning, is the making of articles or material (now on a large scale) by physical labour or mechanical power. (Shorter Oxford English Dictionary, Vol. 1, 1203). According to the permanent Edition of Words and Phrases. Vol, 26, "manufacture" implies change but every change is not manufacture and yet every change in an article is the result of treatment, labour and manipulation. But something more is necessary and there must be transformation; a new and different article must emerge having a distinctive name, character or use."

4. From the above observations, it is clear that the word "manufacture" no doubt, implies a change of material. But, that mere change in the material is not sufficient and something more is necessary. To constitute "manufacture" there must be such transformation in the change out of which a new and different article must emerge having a distinctive name, character or use.

5. The question is when the coffee seeds are powdered, without mixing anything more, whether any new and different article emerges having a distinctive name, character or use. I think, there emerges no such article in the process, Generally "coffee" includes coffee powder. It is common knowledge that coffee seeds as such have no particular use. To make it fit for use, it is necessary to be roasted and powdered. The resulting powder, in the context, cannot be said to be another article with distinctive name, character or use. The Courts, therefore, have erred in holding that the process out of which coffee seeds are converted into powder "manufacturer".

6. In the result, the petition is allowed. The orders under revision are set aside. The matter stands remitted to the Court of the Civil Judge, Bellary, for disposal according to law.

7. No costs.

8. Revision allowed.