

(1994) 01 KAR CK 0022
In the Karnataka High Court
Case No : W.A. (FR) No. 3393 of 1993

Mithilabai

APPELLANT

Vs

K.S.R.T.C.

RESPONDENT

Date of Decision : 31-01-1994

Acts Referred:

High Court of Karnataka Writ Proceedings Rules, 1977 — Rule 36, 7

Citation : (1994) ILR (Kar) 470

Hon'ble Judges : S.B. Majmudar, C.J.;K.B. Navadgi, J

Bench : Division Bench

Advocate : K. Sreedhar, for the Appellant;

Judgement

S.B. Majumudar, C.J.,

1. Learned Counsel for the appellants submits that the office has wrongly demanded Court fee of Rs. 400/- from the appellants. This Appeal arises out of a common Order in the Writ Petitions by which interim relief was not granted to the petitioners. It is submitted placing reliance on a Decision of the Division Bench of this Court dated 22nd July 1986 in Writ Appeals Nos.1877 to 1887 of 1986 that the appellants have got a common grievance against a common ad interim order and therefore it is unnecessary to file separate Appeals by paying separate Court fee.

2. In our view, this Decision is rendered per incuriam for the simple reason that Rule 7 of the Writ Proceedings Rules 1977 read with Rule 36 thereof has not been noticed by the Division Bench. The said Rules 7 and 36 of the said Rules read as follows:-

"7. PROCEDURE FOR FILING COMMON OR JOINT PETITIONS:

(1) Several persons having similar but separate and distinct interest in the subject matter of controversy involving common questions of law and facts may file a common petition. Such a petition shall be treated as equivalent to the filing

of such number of Writ Petitions as there are petitioners and shall be numbered accordingly and the Court fee payable on such Writ Petition shall be the same as payable on the number of Writ Petitions when filed separately. For all other purposes, such as issue of notice, etc. it shall be treated as one Writ Petition. Such common Writ Petition shall be in Form No. III appended to these Rules and shall be supported by the affidavit of anyone of the petitioners as in Form No. II. For such common petition one vakalath with one set of Court fee stamp shall be sufficient.

(2) Several persons having common or joint interest but not seeking any individual relief interim or final may file a single petition.

36. Appeal against common order on several Writ Petitions:

The provision of Rule 7 shall, mutatis mutandis, apply to appeals filed from a common order."

3. A conjoint reading of the said Rules clearly indicates that where the common Appeal is against an interim or a final order and if that covers more than one person having similar but separate and distinct interest in the subject matter of controversy involving common questions of law and facts, then parties challenging such an interim or final order will have to file separate Appeals paying separate Court fee; however, they may file the same on one set of papers and may also file only one certified copy of the impugned order and get the other copies dispensed with. Therefore, the office will have to treat these Appeals as five Appeals and the appellants will be required to pay Rs. 500/- Court fee in all. Court fee of Rs. 100/- has already been paid and the balance Court fee of Rs. 400/- shall be paid within a week from today.