

(2011) 04 KAR CK 0050

In the Karnataka High Court

Case No : Civil Revision Petition No. 1028 of 2011 (Res)

M/s. Shekarappa Kalakappa Shreegiri Commission Agent,
APMC Yard Gadag

APPELLANT

Vs

Shri Gadigeppa Jakkali

RESPONDENT

Date of Decision : 12-04-2011

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115
Karnataka Agricultural Produce Marketing (Regulation) Act, 1966 — Section 84

Citation : (2013) 1 AKR 430 : (2013) 1 KCCR 431

Hon'ble Judges : D.V. Shylendra Kumar, J

Bench : Single Bench

Advocate : Sharad V. Magadum for Sri Hemant R. Chandangoudar, for the Appellant;

Final Decision : Dismissed

Judgement

D.V. Shylendra Kumar

1. This revision petition u/s 115 of the Civil Procedure Code, 1908, is directed against dismissal of SC No. 4 of 2008 on the file of the Court of Additional Senior Civil Judge, Gadag, as suit for recovery of sum of Rs. 12,700/- from the defendant as not maintainable in view of the provisions of section 84 of the Karnataka Agricultural Produce Marketing [Regulation and Development] Act, 1966 [for short "the Act"]. Appearing on behalf of the petitioner, submission of Sri. Sharad Magadum, learned counsel is that it is a clear instance of failure to exercise jurisdiction; that the learned Judge of the small causes has overlooked the observation made by the division Bench of this court and is contrary to the view taken by the division Bench of this court in CCC [Civil] No. 2036 of 2009 disposed of on 17.09.2009 wherein the division Bench had an occasion to hold that in such matters provisions of section 84 of the Act are not attracted etc.,

2. A perusal of the order under revision indicates that the learned trial Judge has exhibited his awareness to the provisions of section 84 of the Act and in fact the

first issue was precisely as to whether suit filed by the plaintiff was hit by the provisions of section 84 of the Act and this finding having been answered in the affirmative, there was no way the learned small causes Judge could have proceeded with the suit.

3. In the wake of the statutory bar in terms of section 84 of the Act to entertain a suit, it cannot be said that the learned Judge of the small causes court has failed to exercise jurisdiction.

4. Section 84 of the Act, particularly, sub-section [4] of section 84 of the Act, reading as under:

84. Provision for settlement of disputes:-

[4] Notwithstanding anything contained in any law, no suit or other legal proceeding shall be entertained by any Court in respect of disputes referred to in sub-section [1], without the previous sanction of the market committee.

shows there is a clear bar for the civil court to entertain a suit without previous sanction of the Market Committee and in this case there is no dispute there was no sanction by the market committee.

There is no merit in this civil revision petition which is hereby dismissed.