

(1998) 06 KAR CK 0074

In the Karnataka High Court

Case No : Civil Revision Petition No. 83 of 1994

M/s. Tapoban Housing Finance Limited, New Delhi

APPELLANT

Vs

R. Udaya Kumar

RESPONDENT

Date of Decision : 08-06-1998

Acts Referred:

Consumer Protection Act, 1986 — Section 25, 25 (1)

Citation : (1999) 98 CompCas 549 : (1998) 5 KarLJ 619

Hon'ble Judges : Hari Nath Tilhari, J

Bench : Single Bench

Advocate : Dr. J.P. Udgata, for the Appellant; Sri L. Govindaraju, for the Respondent

Judgement

1. This revision application arises from the order dated 5-11-1993. The order sheet says on 5-11-1993 the decree-holder is present.

Notice was issued to the judgment-debtor. Judgment-debtor absent and orders attachment of movables by 21-1-1994. From this order, the revision has been preferred.

2. Sri J.P. Udgata, learned Counsel for the revisionist is present. Respondent is served. But none appears on his behalf though the Counsel's name has been shown as Sri L. Govindaraju. I have revised the list twice. So I have started to hear Sri J.P. Udgata, learned Counsel for the revisionist.

3. Learned Counsel for the revisionist's submission is of two folds. One is that order indicates that Court notice was issued to the judgment-debtor. But it is nowhere indicated that whether the Court has verified that the notice has been served or not. Learned Counsel states that really notice has been served on the judgment-debtor and the judgment-debtor appeared before the Court and requested the Court to permit him to file objections and engage a Counsel. The Court did not consider that request, instead wrongly put it that the judgment-debtor is absent. Learned Counsel has further contended that u/s 25(1) of the

Consumer Protection Act, 1986, in the matters of execution of decree or order passed by the Forum, the Forum in the event of its inability to execute it, consumer forum has to send it to the Court within the local limits of whose jurisdiction incases where the orders have been passed against a company, the registered office of the company is situated. Learned Counsel further contended that in the present case, company's corporate registered office is situated at No. 411, Ansal Chamber, New Delhi-110066. At Bangalore there is no registered office, but only Branch Office. None appears to oppose it.

4. I have applied my mind to the contentions of the learned Counsel for the parties. If the revisionist-applicant i.e., judgment-debtor has been served and he wanted time to file objections, the learned Civil Judge should have allowed him time to file objections and should not have put in the order that the judgment-debtor is absent. If otherwise i.e., it is not so that the judgment-debtor has been served or has been present, then before passing an ex parte order of attachment, it was the duty of the Court to have ascertained if the Court notice issued by it, has been served on the judgment-debtor, if that was so, then he could have proceeded ex parte. But order sheet does not indicate whether Court notice has been served on the judgment-debtor. If judgment-debtor has been served and present, then the Court could not have passed an ex parte order. I do not understand why the Court have used telegraphic language in their order. Order sheet says "O.P.Cn to J.Dr. by 5-11-1993". This expression "O.P.Cn." is not very clear. Courts are expected to write the orders in a simple clear language in which it can be understood by a common man also. It is expected that judicial officers will take note of it and they will not use abbreviations in the order. Such an approach is condemned. The contention of the revisionist appears to have some substance. Section 25 of the Consumer Protection Act, 1986, reads as under:--

"25. Enforcement of orders by the Forum, the State Commission or the National Commission.--Every order made by the District Forum, the State Commission or the National Commission may be enforced by the District Forum, the State Commission or the National Commission as the case may be, in the same manner as if it were a decree or order made by a Court in a suit pending therein and it shall be lawful for the District Forum, the State Commission or the National Commission to send, in the event of its inability to execute it, such order to the Court within the local limits of whose jurisdiction.--

(a)In the case of an order against a company, the registered office of the company is situated.

In view of clause (a) of Section 25, only the Court within whose territorial jurisdiction of the company's registered office is situated is competent to execute the decree and the law mandates that the order where the Tribunal is unable to execute the order passed in such proceedings, it shall send it to the Court within the local limits of whose jurisdiction the registered office of the company is situated.

5. In this view of the matter, it appears that the learned Civil Judge had no jurisdiction to proceed with the attachment and to execute the decree and the Consumer's Forum was wrong in sending the order for execution to the learned Civil Judge, Bangalore. It is open to it to reconsider the matter. The order dated 5-11-1993, as such, has got to be set aside. The learned Civil Judge is directed to rehear the matter and give the judgment-debtor an opportunity to allege and show that the Head Office of the company or registered office of the company is at Delhi and not at Bangalore and if that is so, he will decide the matter in the light of the observations and then Consumer Forum may send the matter to proper Court. The revision is thus allowed with the above directions.