
(1988) 07 KAR CK 0077
In the Karnataka High Court
Case No : Writ Petition No. 9280 of 1988

Munilakshamma

APPELLANT

Vs

Deputy Commissioner

RESPONDENT

Date of Decision : 21-07-1988

Acts Referred:

Citation : (1988) ILR (Kar) 2814 : (1988) 2 KarLJ 209

Hon'ble Judges : Balakrishna, J

Bench : Single Bench

Advocate : G. Gangi Reddy, for the Appellant; K. Srinivasa Gowda, HCGP for R-1, for the Respondent

Judgement

Balakrishna, J.—The learned Counsel for the petitioner submits that he desires to give up the IInd Respondent for the reasons that in this Writ Petition what he has challenged is only an order of refusal by the Deputy Commissioner, Kolar District, Kolar, who is an Appellate Authority to grant an order of interim stay, pending disposal of the appeal. Permission is granted. The petitioner is directed to amend the cause title by deleting the name of Respondent No. 2.

2. In this Writ Petition the grievance of the petitioner is that the Deputy Commissioner, Kolar District, Kolar had refused to grant an order of stay pending disposal of the appeal preferred by the petitioner before the Deputy Commissioner, in case No. RA.SC/ST. 12/88-89. It is further submitted that in the said order (vide Annexure-A) the Deputy Commissioner, Kolar District, has not even assigned any reasons for having rejected the application for grant of stay pending disposal of the appeal. In the absence of an order of stay pending disposal of the appeal, it is contended that the very purpose of the appeal would be defeated. It is further submitted that the only relief that is claimed by the petitioner in this Writ Petition is to set aside the order dated 14-6-1988 vide Annexure-A and for grant of an interim order of stay pending disposal of the appeal preferred by the petitioner before the 1st Respondent against the order of the Assistant Commissioner, Chickballapur, in case No. LND.SC.ST(Chi) 8/86-87

dated 17-8-1987.

3. The point for consideration is whether the order passed by the 1st Respondent vide Annexure-A is sustainable.

4. When a statute provides a remedy by way of appeal to the Appellate Authority against the impugned order, such a legal remedy should not be frustrated by an order of refusal to grant a stay of the operation of the impugned order because the implementation of the impugned order would not only disturb the status of the appellant but also defeat the very purpose for which the remedy is sought before the Appellate Authority. Once the impugned order is implemented the appeal could not serve any useful purpose. In the instant case, the impugned order is not only cryptic but also devoid of reasons. It would be less than reasonable to say that the party who is likely to be affected by Civil consequences of an order refusing to grant stay, has no right to know the reasons which prompted the Appellate Authority to decline an order of stay. It has to be borne in mind that even an order passed on the interim application for grant of stay is an order which is subject to judicial review and unless reasons are assigned even the very process of judicial review would suffer from handicap to a considerable extent. In short, an order of refusal to grant an interim order of stay against the impugned order by the Appellate Authority without assigning reasons tantamount to an arbitrary order violative of elementary principles of natural justice.

5. For the reasons stated above the impugned order vide Annexure-A is totally unjustified and cannot be sustained.

6. I therefore, quash the order Annexure-A, allow this Writ Petition and pass the following order:

The order of the Assistant Commissioner, Chickballapur in Case No. LND.SC.ST (Chi) 8/86-87, dated 17-8-1987 against which the petitioner has preferred before the 1st respondent an appeal in Case No. RA.SC/ST. 12/88-89 is stayed, pending disposal of the appeal before the Deputy Commissioner, Kolar District in RA.SC/ST.12/ 88-89. It is made clear that right is reserved to the IInd Respondent if aggrieved to move the 1st Respondent for vacating the stay. Accordingly this Writ Petition is disposed of.