

(2009) 11 KAR CK 0066
In the Karnataka High Court
Case No : C.C.C. No. 1373 of 2009

Rajashekar

APPELLANT

Vs

S.Y. Ganganalli

RESPONDENT

Date of Decision : 19-11-2009

Acts Referred:

Contempt of Courts Act, 1971 — Section 11, 12, 13

Citation : (2010) ILR (Kar) 2183

Hon'ble Judges : K.N. Keshavanarayana, J;D.V. Shylendra Kumar, J

Bench : Division Bench

Advocate : Ameet Kumar Despande, for the Appellant; Ravindra Reddy, for the Respondent

Final Decision : Dismissed

Judgement

D.V. Shylendra Kumar, J.—This Contempt petition filed under Sections 11 and 12 of the Contempt of Courts Act is by the petitioner in WP. No. 6051/2007 with whom had joined other similar persons in WP. No. 8480/2007 C/w W.R. Nos. 16409/2006, 4287/2007, 9680/2007 & 12786/2006 (GM-RES), which were all disposed of as per the common order dated 19.02.2009.

2. Petitioner is complaining that the accused herein who was the 2nd respondent in the writ petition, namely the General Manager/Authorized Officer, Shri Siddeshwara Co-operative Bank Ltd. Bijapur-586101 has disobeyed and disregarded the order passed by this Court in WP. No. 6051/2007, therefore has prayed for initiating suitable contempt proceedings against the accused.

3. Petitioner amongst others, who approached this Court, through writ petitions are all borrowers of considerable sums of money from Shri Siddeshwara Co-operative Bank Ltd. and obviously were all shareholders of the Bank and so far as the complainant/petitioner is concerned it appears he had borrowed a sum of Rs. 30 lakhs as on 20.10.2001 and further sum of Rs. 20 lakhs as on 28.03.2002.

4. Version of the Bank was that the complainant/petitioner had failed to repay

the amount, as by 25.09.2004 complainant/petitioner had paid a meager sum of Rs. 3,21,000/- and therefore, the Bank took action for realization of the amount from the complainant/ petitioner.

5. The Bank for a good measure roped in the provisions of the Securitization and Reconstruction of the Financial Assets Act 2002 for the recovery. It appears the Bank took possession of the secured assets of the borrower in exercise of the power u/s 13 of the said Act and perhaps would have sold it in public auction but the borrower got alerted and approached this Court for relief in a writ petition.

6. The writ petitions in terms of the common order were allowed as under:

ORDER

a) It is declared that the 2nd respondent is not a Bank falling within the definition of the said term under the Securitisation Act and as a consequence, all actions initiated and concluded under the said Act in respect of the properties belonging to the petitioners are declared without jurisdiction.

b) The auction notices issued by the 2nd respondent are quashed.

c) A mandamus is issued directing the 2nd respondent to furnish to all the petitioners, the details of the demand, in any event within two months from today.

d) The 2nd respondent-Bank is directed to refund the monies paid by the auction purchaser who in turn is directed to deliver vacant possession of the property to the Bank, on receipt of the said sum, in any event within a period of two months.

7. To the writ petition of the complainant, the Deputy Commissioner, Bijapur and the General Manager/Authorised Officer of Siddeshwara Co-operative Bank Ltd. were arraigned as respondent Nos. 1 & 2 respectively.

8. The present contempt petition is against the Manager of the 2nd respondent in the writ petition for disobeying and disregarding the order. Particularly, as submitted by Sri. Ameet Kumar Deshpande, Learned Counsel appearing for the respondent that the accused has failed to obey the directions as contained in Clause 6(a) & (c) of the Order.

9. Notice had been issued to the accused and is represented by Sri Ravindra Reddy, Learned Counsel, Statement of objections has been filed by the accused person inter alia contending that there is no violation of the Court direction and the complainant in fact, is quite aware of the details of repayment by him and the manner in which the outstanding amount of Rs. 98,56,087/- as on 20.10.2009 is made up of and the complaint is without substance or factual basis.

10. While Sri. Ameet Kumar Deshpande, Learned Counsel appearing for the complainant does not dispute this fact and even otherwise we are satisfied about the correctness of the above contention in view of Annexures R5 - Statement issued by the Bank to the borrower and R6 - letter written by the complainant to

the General Manager which reads as under:

From R.S. Gadag C/o. Sangam Flour Mill, Bijapur.

To,

The General Manager, S.S. Co-operative Bank Ltd. Bijapur.

Sub : Payment of outstanding dues. Respected Sir,

With reference to above we have taken finance from Financial Institution it is expected to be released very shortly and I will pay - dues by 5th of March 2009. This is for your kind information.

Thanking you,

Yours faithfully, Sd/- (R.S. Gadag) 2/03/09

11. This itself indicate, the complainant was not only aware of the details of the outstanding amount but in fact had also undertaken to repay the outstanding amount by 5th of March 2009 as per this letter.

12. In the light of such state of affairs, we do not think there is any substance in so far as the allegation in complaint, that the accused person had disobeyed the order of the directions as per para 6(c) of the order. So far as the submission of the Sri Ameet Kumar Deshpande, Learned Counsel appearing for complainant with regard to disobedience of the order at para 6(a) of the order, Sri Ravindra Reddy, Learned Counsel appearing for the accused submitted that the relief is only in the nature of the declaration and it does not require the accused person to take or carryout any further definite action pursuant to such declaration.

13. We have perused the petition pleadings and considered the submissions made at the Bar by Learned Counsel for the complainant/petitioner Sri Ameet Kumar Deshpande & Learned Counsel for the accused/respondent Sri Ravindra Reddy.

14. In the wake of the information regarding details of borrowal and repayment and even the interest etc., being available with the complainant and has been intimated by the accused person, the grievance about non-compliance of para 6(c) of the order does not survive. In fact, it was a simulated grievance not a real grievance. In so far as the complaint against the disobedience of the Court order in terms of para 6(a) is concerned, as rightly submitted by Sri Ravindra Reddy, Learned Counsel appearing for the accused, there being no direction nothing was required in law to be complied with or carried out by the accused person.

15. In fact mere declaration not followed up by any consequential relief is really of no use to any litigant unless it is a case of declaration of legal status of the person, such is not a case in the present order, therefore, we do not find any need to retain this contempt petition on the file of this Court and therefore, this petition is dismissed.