

(1999) 03 KAR CK 0006

In the Karnataka High Court

Case No : Contempt of Courts Case (Criminal) No. 15 of 1998

Smt. Sarojini

APPELLANT

Vs

Imamsab Dastagir Saheb Nalaband and Others

RESPONDENT

Date of Decision : 31-03-1999

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 21 Rule 99
Contempt of Courts Act, 1971 — Section 2 (c)

Citation : (2000) 1 ALT(Cri) 49 : (1999) CriLJ 4361 : (1999) ILR (Kar) 2790 :
(1999) 6 KarLJ 83 : (1999) 4 RCR(Criminal) 270 : (1999) 2 RCR(Rent) 131

Hon'ble Judges : Kumar Rajaratnam, J;B.K. Sangalad, J

Bench : Division Bench

Advocate : Sri M.B. Naragund, for the Appellant; Sri Ravi S. Balikai, for the Respondent

Judgement

Kumar Rajaratnam, J.—The complainant may be conveniently referred to as the landlady and the 1st respondent-accused as the tenant.

2. The facts, very briefly, which led to this contempt petition being filed, are as follows.--

The landlady got an eviction order of her property in H.R.C. No. 39 of 1977 on 13-9-1980. Aggrieved by this the tenant preferred a revision on 21-9-1981. The District Court, Bijapur allowed the revision and set aside the eviction order passed by the H.R.C. Court. Aggrieved by this, the landlady preferred CRP No. 1627 of 1984. This Court by an order dated 6-6-1984 allowed the CRP and ordered eviction and granted two years time for the tenant to give vacant possession. It is common ground that this order was final and binding on both the parties.

3. Notwithstanding this, the tenant-1st respondent deliberately filed an application in Ex.C. No. 65 of 1993 under Order 21, Rule 99 of the CPC obstructing the landlady from getting possession. This was dismissed by the

Executing Court on 15-11-1996. Aggrieved by this the tenant deliberately filed CRP No. 3861 of 1996 against the order passed by the Executing Court under Order 21, Rule 99. This Court on 28-11-1996 dismissed the CRP. There are other proceedings by the 1st respondent-tenant which need not be gone into by this Court.

4. The learned Counsel for the 1st respondent submitted that the landlady and the tenant compromised the matter by entering into an agreement on 2-1-1996 by which the landlady had agreed to sell the property to the tenant. It is also common ground that the tenant in whose favour the agreement was entered filed a suit for specific performance which was resisted by the landlady. The suit was decreed by the Trial Court. Aggrieved by the judgment and decree of the Trial Court an appeal was filed by the tenant and the same was partly allowed. Not satisfied by the judgment and decree of the Appellate Court the tenant filed a second appeal in R.S.A. No. 210 of 1999. It is common ground that the tenant has had an interim order in his favour with respect to dispossession in the R.S.A.

5. Mr. Naragund, the learned Counsel for the complainant strenuously submitted that the conduct of the tenant-1st respondent was reprehensible and amounted to contempt of Court. He also submitted that the persistent effort by the tenant in filing one application after the other vexatiously and to deliberately obstruct the Courts of justice and to deny the landlady the benefit of the decree clearly amounts to contempt of Court. The learned Counsel relied on a judgment of this Court in *Vijaya Bank Employees Housing Co-operative Society Ltd. Vs. Muneerappa*, . This Court held that filing suit after suit and application after application could not but be characterised as daring raid on the Court and an abuse of process of the Court. They are undoubtedly calculated to obstruct the due course of a judicial proceeding. It is not a mere disobedience but even an abuse of process of the Court would amount to contempt of Court within the meaning of Section 2(c) of the Contempt of Courts Act. Therefore, where the action of the accused is calculated to obstruct the due courses of a judicial proceeding and the administration of justice it would amount to criminal Contempt of Court. The learned Counsel also relied in a judgment of the Supreme Court in *Advocate-general, State of Bihar Vs. Madhya Pradesh Khair Industries and Another*, .

6. From the conduct of the tenant-1st respondent we have no hesitation in coming to the conclusion that the application filed under Order 21, Rule 99 of the CPC by the tenant-1st respondent was clearly uncalled for. This has become apparent when the tenant failed in CRP No. 1627 of 1984. If the tenant was aggrieved by any order passed in CRP No. 1627 of 1984 it may have been appropriate for him to take the matter elsewhere. But filing an application under Order 21, Rule 99 of the CPC was certainly not maintainable having suffered eviction. This Court was pleased to dismiss CRP No. 3861 of 1996 on 28-11-1996. We shall not deal with the other events in this case since that may have some bearing on the second appeal pending before this Court.

7. The conduct of the tenant-1st respondent in filing an application under Order 21, Rule 99 of the CPC was clearly calculated to obstruct the due course of justice and to unlawfully deny the landlady the benefit of the eviction order obtained in H.R.C. No. 39 of 1977.

8. In view of the subsequent events we propose to take a lenient view in this matter and it would be appropriate to impose a fine on the tenant-1st respondent. We have heard the learned Counsel for the 1st respondent on the quantum of fine.

9. We accordingly find the 1st respondent guilty of contempt of Court and sentence him to pay a fine of Rs. 500/-. The said sum shall be paid in Execution Case No. 65 of 1993 on the file of Civil Judge, Junior Division, Jamkhandi within one month from the date of receipt of this order. On such payment the complainant is permitted to withdraw this amount as compensation. It is needless to say that any observation made by this Court will have no bearing in the second appeal that is pending. The contempt petition is disposed of accordingly.