

(1968) 04 KAR CK 0006
In the Karnataka High Court
Case No : Civil Petition No. 132 of 1966

Sreekantayya (L.)

APPELLANT

Vs

Puttaswami (M.) and Another

RESPONDENT

Date of Decision : 05-04-1968

Acts Referred:

Mysore Shops and Establishments Act, 1948 — Section 41 (2)
Payment of Wages Act, 1936 — Section 15 (3)

Citation : (1969) 2 LLJ 440

Hon'ble Judges : Ahmed Ali Khan, J;A.R. Somnath Ayyar, J

Bench : Division Bench

Judgement

Somnath Ayyar, J.—Respondent 1 was an employee under the petitioner, and when he was removed from service for misconduct, he preferred an appeal to the labour officer under S. 41(2) of the Mysore Shops and Establishments Act, 1948. In that appeal, the labour officer directed the petitioner to pay a sum of Rs. 200 as compensation to respondent 1. When that amount was not paid respondent 1 made an application under S. 15(3) of the Payment of Wages Act to the city magistrate, Mysore, for an order for the payment. That order which was made by the magistrate was however quashed by this Court in Srikantayya (L.) (Proprietor of S.E.L. Dry Cleaners) Vs. Puttaswami (M.) and Another, on the ground that it was beyond the competence of the magistrate.

2. But by then the petitioner had paid the amount to respondent 1, and so, he made an application to the magistrate for restitution.

3. The magistrate declined restitution on the ground that he had no jurisdiction to order it. So, the petitioner asks us to quash that order made by the magistrate and to direct restitution.

4. It is clear that the magistrate abdicated his jurisdiction when he declined to direct restitution. The payment by the petitioner was made in obedience to an order made by the magistrate which he had no jurisdiction to make. If that order was quashed by this Court on that ground, it is the clear duty of the magistrate

to put the petitioner back into the position which he had occupied before he was coerced to make the payment by an order made by the magistrate which was beyond his jurisdiction.

5. That being so, we quash the order of the magistrate and direct him to take suitable proceedings for making the restitution sought by the petitioner.

6. In the circumstances, no costs.