

(2000) 02 KAR CK 0098
In the Karnataka High Court
Case No : Writ Appeal No. 4347 of 1999

Sri. Keshav Vittal Naik

APPELLANT

Vs

Channakeshava Prasad Wines and Others

RESPONDENT

Date of Decision : 24-02-2000

Acts Referred:

Citation : (2000) 3 KCCR 1607

Hon'ble Judges : Y. Bhaskar Rao, C.J;V. Gopala Gowda, J

Bench : Division Bench

Advocate : A. Jagannatha Shetty, for the Appellant; M.R. Naik, for G.K. Bhat, for Respondent 1 and N.K. Ramesh, Government Advocate for Respondents 2 to 5, for the Respondent

Final Decision : Dismissed

Judgement

V. Gopala Gowda, J.—This appeal is filed assailing the order of the learned single Judge allowing the writ petition.

2. The matter relates to dispute with regard to partnership in respect of Chennakeshava Prasad Wines, a Partnership firm (hereinafter referred to as Firm). The Appellant herein filed an application on 18.6.1998 to the 3rd Respondent Deputy Commissioner (Excise) alleging that he and his wife Smt. Lakshmi are the partners of the firm; that one Prasanna D. Naik has registered another partnership deed on 4 digits stamp paper stating that he and his wife Smt. Saraswathi are the partners of the firm, thereby, fraud has committed by furnishing false information and requested not to renew the license of the firm to conduct the liquor business. Based on that representation the 3rd Respondent issued an endorsement on 5.9.1998 stopping renewal of the license. The same was challenged by Prasanna D. Naik in appeal before the Excise Commissioner. The Excise Commissioner allowed the appeal on 16.11.1998, set aside the endorsement and directed to issue licence in favour of Prasanna D. Naik. The Appellant challenged the same in Appeal No. 604 of 1998 before the Karnataka Appellate Tribunal. On 20.5.1999 the Tribunal allowed the appeal, set aside the

order of the Excise Commissioner and a direction was issued to hand over business of the firm to the Appellant on the basis of the Full Bench decision of the Tribunal in Appeal Nos. 660, 665 of 1997 and 49 of 1998 decided on 3.2.1999. The firm represented by Prasanna D. Naik filed Writ Petition No. 17418 of 1999 challenging the order of the Tribunal. The learned Single Judge by the order dated 9.6.1999, which is under challenge in this Appeal, found that the Full Bench decision of the Tribunal relied upon actually helped Prasanna D. Naik. In other words, the Full Bench decision of the Tribunal was in favour of Prasanna D. Naik and against the Appellant. It was noticed that as per the findings of the Excise Commissioner from 1993-94 the license of the firm was renewed in favour of Prasanna D. Naik. It was further noticed that though the firm was constituted on 16.6.1992 with Appellant and his wife Lakshmi Keshav Naik as partners, in the year 1993-94 Prasanna D. Naik and Saraswathi Prasanna Naik have taken over the firm as partners and the retirement of the Appellant and his wife from the firm as partners was also informed to the Department. It was also observed that since 1993-94 there was no further change in the constitution of the firm. These facts were found on the basis of the report of 3rd Respondent.

3. Admittedly there is a dispute between two groups and it is clear from the order of the Learned Single Judge that a suit is also pending between the parties. The decision in the said suit will bind the parties. The findings recorded by the learned Single Judge are based upon the report of the 3rd Respondent and the records perused. The findings cannot be found fault with and no interference is called for in this case.

4. Writ Appeal is rejected.