

(2011) 11 KAR CK 0373
In the Karnataka High Court
Case No : Criminal CCC. No. 29 of 2010

Sri. Ravikumar and Smt. H.N. Sandhya	APPELLANT
Vs	
Smt. K.S. Saroja W.o. Late K.R. Sampath Kumar and Sri. K.M. Murali	RESPONDENT

Date of Decision : 18-11-2011

Acts Referred:

Contempt of Courts Act, 1971 — Section 15 (1), 15 (1) (b), 2 (c)

Citation : (2012) 2 KarLJ 29

Hon'ble Judges : D.V. Shylendra Kumar, J;C.R. Kumaraswamy, J

Bench : Division Bench

Advocate : M. Sriram Reddy, for the Appellant; M. Sriram Reddy, for the Respondent

Judgement

Shylendra Kumar, J.—The plaintiffs in O.S. No. 2080/2010 are the complainants in this contempt petition presented u/s 15(1)(b) of the Contempt of Courts Act, 1971 arraying accused Nos.1 and 2 as the defendants in the suit. The suit is one for specific performance of an agreement dated 30.01.2010 for conveying the suit schedule property bearing No.626/25 measuring East to West 50 feet (15.25 mtrs) and North to South 30 feet 9 9.14 mtrs.) totally ad measuring 1500 sq.feet (153.19 mtrs.) with 10.00 squares building situated at 1st A Main Road, VIII Block, Jayanagar, Bangalore formed by City Improvement Trust Board, Bangalore.

2. The defendants have been described as the owners of the schedule property and are bound to execute the sale deed but it appears that the plaint averment is to the effect that the defendants issued notice dated 12.03.2010 through their advocate cancelling the agreement between the parties. The plaintiffs filed a suit for specific performance on the ground that the cancellation was on flimsy grounds and the defendants were bound to execute the sale deed in term of the agreement,

3. Sri. M.Sriram Reddy, learned counsel for the complainants submits that the plaint was presented on 20.03.2010 before the City Civil Court, Bangalore.

4. It is also submitted that the defendants were served and they had filed objections to the application of the plaintiffs filed under Order XXXIX Rule 1 and 2 but did not file any written statement in the suit.

5. It is submitted by Sri. Sriram Reddy, learned counsel for the complainants that no orders were passed on the application of the plaintiffs for grant of temporary injunction as the Court did not have any time due to the pressure of work before closing of Courts for summer vacation and had adjourned the case to be called after vacation.

6. The present criminal contempt petition is on the premise that one K.Venugopal, Son of Late Dr. M.Krishnamurthy, resident of Jayanagar, Bangalore had moved the Vacation Court, City Civil Court, Bangalore by filing O.S. No. 3150/2010 and impleading the accused persons as the defendants therein and for executing a registered sale deed in favour of the plaintiff to act in terms of an agreement of sale dated 15.01.2010 and the said suit ended in a compromise decree passed by the vacation Court on 24.05.2010 and it is in the wake of this development, the present contempt petition is filed before this Court on the allegation that the accused persons have acted in a collusive manner with the plaintiff in O.S. No. 3150/2010 and they have misused and abused the process of the Court to defeat the rights of the complainants and therefore, they have rendered themselves punishable for such abusive conduct of misusing the process of the Court in terms of provisions of Contempt of Courts Act, 1971 particularly having committed criminal contempt in the definition of Section 2(c) of the Act.

7. This matter is listed before the Court today for orders on receipt of notice on the accused persons. Notice had been issued to the persons way back on 14.12.2010 and the matter is being listed before this Court thereafter on the following dates for not affecting service on the accused persons.

21.01.2011 : Neither the report of non-service nor acknowledgment for serving the notice is received. Therefore issue fresh notice to the contemner through the concerned Commissioner of Police, returnable by 18.02.2011.

List it on 18.02.2011.

18.02.2011 : One week's time granted to do the needful.

28.03.2011 : List after service is complete.

26.05.2011 : Learned counsel for petitioner prays for time for issuance of notice to respondents.

30.05.2011 : Complainant is absent.

Steps to be taken for service of notice on the respondent.

List the matter on 06.06.2011.

06.06.2011 : Learned counsel appearing for the complainant submits that steps

have been taken.

Office to check and proceed.

07.07.2011 : Learned counsel for the complainant prays for time to furnish the correct address of the respondents 1 and 2. List this matter after one week.

15.07.2011 : The learned counsel for complainant prays for time to furnish the correct address of Respondents No.1 and 2.

List the matter on 29.07.2011.

29.07.2011 : Learned counsel for respondents prays for time to take steps in respect of respondents 1 and 2 / accused nos.1 & 2.

List this matter on 11.08.2011.

11.08.2011 : The complainant's counsel submits that needful has been done.

Office to verify and issue notice to respondents.

17.11.2011 : Call on 18.11.2011.

8. When this matter had come up before the Court on 17.11.2011, it was adjourned to today with a request to the learned counsel for the complainants to narrate the facts leading to the presentation of the contempt petition.

9. Sri. Sriram Reddy, learned counsel for the complainants has submitted regarding the facts. We have also perused the petition pleadings.

10. Mr. Sriram Reddy, learned counsel prays for four more weeks time to effect service of notice in the contempt petition on the accused persons as it is submitted that they have changed their address.

11. We find the whole exercise a futile one as we do not find any material available nor any case is made out for taking action against the accused persons in our contempt jurisdiction within the definition of the word Criminal Contempt and only possible understanding can be as under sub clause (c) (iii) of Section 2 which reads:

Criminal Contempt" means the publication (whether by words, spoken or written, or by signs, or by visible representation, or otherwise) of any matter or the doing of any other act whatsoever which :

(i) scandalises or tends to scandalise, or lowers or tends to lower the authority of, any Court; or

(ii) prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding; or

(iii) interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner.

12. Contempt jurisdiction is a very solemn and serious jurisdiction. The jurisdiction and power has to be exercised with great care, caution, trepidation and solemnity when it is warranted. Casual or unnecessary exercise of such a mighty power, conferred on the superior courts in our country can only belittle the efficacy of the very jurisdiction and it may also give ideas to not so bonafide persons and private persons to approach this Court for exercise of such jurisdiction even to settle scores against their rivals or persons inimical to them.

13. Though Sri. Sriram Reddy, learned counsel for the complainants has submitted that the learned Advocate General of the State had given his consent in terms of Section 15(1) of the Act and also points out that this Court has already issued notice to the persons on this contempt petition and it is only the non service of notice on them which has held up the proceedings for so long, we are not very impressed that the present petition makes even a prima facie case for punishing the accused persons in our contempt jurisdiction more so, for having committed criminal contempt. We say so for the reason that in a situation wherein a litigant has grossly abused or misused the process of law and has indulged in repeated litigation to defeat the fruits of a decree in favour of a bonafide litigant which perhaps after long years of effort and toil a litigant has obtained a decree. We do not find any such development in the present case particularly as there is nothing in favour of the person complaining in any suit or Court proceedings which has been concluded. Even the suit filed by the plaintiff is pending and at a very preliminary stage before the trial Court and the person complaining while might have disappointed and may feel cheated by the compromise decree in O.S. No. 3150/2010, that in itself will not give cause for taking action against the accused persons in our contempt jurisdiction particularly for criminal contempt,

14. We do not find even the present petition a bonafide one and it appears be one which is filed to settle scores with the accused persons. While it is not for this Court in this jurisdiction to express any opinion or views on the merits of the case i.e., the pending proceedings in O.S. No.2080/2010, as we cannot hold anything about the other suit filed by a person who is not a party before this Court in this proceeding wherein the accused persons were party.

15. Though, Mr. Sriram Reddy, learned counsel for the complainants submits that the subject matter is regarding two suits which are one and the same, it is not necessary to examine that aspect in this petition and we do not find any bonafides at all in the present petition. This contempt is dismissed levying a cost of Rs. 10,000/-on the complainant, but reserving liberty to the complainants to workout their rights and remedies elsewhere in accordance with law.

As the accused are not served, cost to be deposited before this Court within four weeks time from today and to be credited to the account of High Court Legal services Committee to be utilised for providing legal aid to any deserving litigant approaching this Court.

If the cost is not deposited within four weeks from today, Registry is directed to issue a Certificate in favour of Secretary, High Court Legal Services Committee to be realised as though it is a decree of the Civil Court.