

(2017) 11 KAR CK 0042
In the Karnataka High Court
Case No : 50593 of 2017

Sri.K.Ramachandrappa & Ors.

APPELLANT

Vs

Sri.S.V.Revanaradhya

RESPONDENT

Date of Decision : 17-11-2017

Acts Referred:

[Constitution of India](#), [Article 227](#) -
Power of superintendence over all courts by the High Court
[Code of Civil Procedure, 1908](#), [Section 151](#)/
[Order 16 Rule 6](#)

Citation : (2017) 11 KAR CK 0042

Hon'ble Judges : B. Veerappa

Bench : SINGLE BENCH

Advocate : Jagadeesh Goud Patil

Judgement

1. The petitioners filed the present Writ Petition against the order dated 25.10.2017 passed by the Principal Civil Judge, Davangere on I.A.No.IX in O.S.No.448/2013 rejecting the application filed under Order 16 Rule 6 read with Section 151 of Code of Civil Procedure seeking to summon Post Master, Head Post Office, Davangere to produce documents.

2. The respondent who is the plaintiff before the trial Court filed a suit for redemption authorizing the plaintiff to redeem the suit schedule property after paying mortgage amount of Rs.50,000/- to defendant or depositing the same in the Court raising various grounds.

3. The defendants filed written statement denying the plaint averments and contended that the very suit filed by the plaintiff for relief sought for is not maintainable. There is no cause of action to file the suit and sought for dismissal of the suit.

4. When the matter was posted for further cross-examination of the plaintiff, at that stage, the present application came to be filed by the defendants under Order 16 Rule 6 read with Section 151 of Code of Civil Procedure seeking

summon to the Manager/Superintendent/Post Master, Head Post Office, Near Clock Tower, Davangere to produce the documents pertaining to the registered post, acknowledgment due covers which were posted on 13.05.2013 vide registration No.RK-501675039IN and RK501675025IN sent to an address Sri.S.V.Revenaradhya S/o Savanuru Veerappa, No.11262, 8th Main Road, 35th "C" Cross, 4th "T" Block, Jayanagar, Bangalore and Sri.Revenaradhya S/o Savanuru Veerappa, # 1970, Ring Road, Nijalingappa Extension, Davanagere stating that they agreed in the agreement that they will vacate the schedule premises on 01.05.2013. Later, they have intimated the said fact to the plaintiff orally and inspite of their oral request and demands, the plaintiff has not come forward to repay the lease amount. Therefore, the defendants issued notice on 13.05.2013 to the plaintiff to both the addresses i.e., Bangalore and Davangere through RPAD and the same were returned.

5. It is further contended that a private complaint against the plaintiff was filed before the Hon'ble District and Session Judge Court at Davangere in PCR No.89/2013 and all the original documents including both un-served RPAD covers were placed for consideration. Later, in the said case, plaintiff was charge sheeted and the said case was disposed of, wherein appeal has been preferred. Since all the original documents were placed before the District and Sessions Judge, Davangere, an application has been preferred before the trial Court for summoning all the original documents.

6. The trial court considering the application and the objections by the impugned order dated 25.10.2017 dismissed the application filed under Order 16 Rule 6 read with Section 151 of Code of Civil Procedure. Hence, the present Writ Petition by the defendants.

7. I have heard Sri.Jagadeeshgoud Patil, the learned counsel for the petitioners. He vehemently contended that the impugned order passed by the trial Court rejecting the application filed by the defendants is erroneous, contrary to material on record. He would further contended that the reasons assigned in the application filed by the defendants and the reasons assigned by the trial Court rejecting the application are entirely different and on that ground alone, the impugned order passed by the trial Court has to be quashed. He further contended that the defendants has never sought to produce the original covers in PCR No.89/2013 which was lost. The trial Court has utterly failed to read the contents of the said application and failed to apply its mind. In that view of the matter, the reason assigned by the trial Court for dismissal of the said application is totally unsustainable and sought to quash the impugned order by allowing the Writ Petition.

8. Having heard the learned counsel for the petitioners, it is not in dispute that the respondent/plaintiff filed a suit for redemption authorizing the plaintiff to redeem the suit schedule property after paying mortgage amount of Rs.50,000/- to the defendants or depositing the same in Court and other consequential relief. The same was disputed by the defendants. It is also not in dispute that the

defendants filed the application at the time of cross-examination of PW-1.

9. The trial Court considering the entire material on record recorded a specific finding that the defendants sought to produce the document pertaining to the registered post, acknowledgment due covers which were posted on 13.05.2013 in Registration No.RK 501675039IN and RK 501675025IN sent to plaintiff to his Bengaluru address and Davangere address. It is relevant to note that the defendants issued notices to plaintiff through registered post with acknowledgement due to Bengaluru and Davangere address. But both were returned un-served. When notice having cover returned un-served, it would be handed over to sender. Postal Authority do not keep un-served envelopes, covers with them. Further, the defendants themselves stated that they produced original cover in PCR No.89/2013 which was lost. Therefore, question of producing RPAD covers by Postal Department does not arise. Postal Authorities do not keep copy of cover of envelope with them also. When un-served cover containing anything returns with endorsement that cover will be handed over to sender only. Therefore, summoning Head Post Official, Davanagere to produce RPAD covers sent by defendants to plaintiff is not proper. Hence, the trial Court has rejected the application.

10. By a plain reading of the application filed by the defendants clearly indicates that he has not sought for any reasoning from the Postal Authority but he has sought for summoning of the documents sent through registered post on 13.05.2013 to the Bengaluru and Davangere addresses. When the said postal covers both were returned as un-served which was handed over to the plaintiff by the postal department and original cover was produced in PCR No.89/2013 which was lost as admitted by the defendants, the very application filed by the defendants is mischievous. Considering the application and objections, the trial Court passed the impugned order, same is in accordance with law. The petitioner has not made out any ground to interfere under Article 227 of the Constitution of India. Accordingly, the Writ Petition is dismissed.