

(1985) 07 KAR CK 0061
In the Karnataka High Court
Case No : C.R.P. No. 655 of 1983

Subbanna

APPELLANT

Vs

Mudugodu Group Panchayat

RESPONDENT

Date of Decision : 18-07-1985

Acts Referred:

Mysore Village Panchayats and Local Boards Act, 1959 — Section 232 (2)

Citation : (1986) ILR (Kar) 888

Hon'ble Judges : Kulkarni, J

Bench : Single Bench

Advocate : S.N. Pramila, for the Appellant; S.N. Hatti, for the Respondent

Final Decision : Dismissed

Judgement

Kulkarni, J.—This is a plaintiffs, revision against the order dated 9-11-1982 passed by the Munsiff, Tarikere in O.S. 47 of 1981 ordering issue No. 4 against him.

2. The plaintiff filed the suit for declaration that he is the owner of the suit property and is in possession of the same and that defendant No, 1 had no right, title or interest in the same and for permanent injunction restraining the defendants from interfering in any way with or meddling with the peaceful possession and enjoyment of the suit property of the plaintiff.

3. Defendants 1 and 2 resisted the suit contending that the suit was barred u/s 232(2) of the Karnataka Village Panchayat and Local Boards Act, 1959.

4. The Learned Counsel for the revision petitioner contended that defendants 1 and 2 have been sued in their personal capacity. Defendants 1 and 2 are described as : --

(1) Mudugodu Group Panchayat by its Secretary, Mudugodu, Rangenahalli, Tarikere Taluk.

(2) Beeranna, S/o. Shankappa, major land-holder and Village Panchayat

Chairman, Rangenahalli, Tarikere Taluk.

The very description of defendant No. 1 as "Group Panchayat" shows that defendant No. 1 is not sued in the personal capacity. Defendant No. 2 Beeranna is described as "Village Panchayat Chairman". The suit is filed against him as Village Panchayat Chairman itself. Therefore, the suit cannot be said to be filed against him in his individual capacity.

5. The Assistant Commissioner has passed an order of eviction against the plaintiff and directed defendants 1 and 2 to execute his order. Defendants 1 and 2 are bound, in law, to execute the order of the Assistant Commissioner. Therefore the present suit filed by the plaintiff is nothing but an attempt to circumvent the order of the Assistant Commissioner. If he is felt aggrieved by the said order, the law provided him with remedies like appeal and revision. He, instead of approaching the appropriate forum, had come up with a suit, which is clearly barred under the Karnataka Village Panchayat and Local Boards Act.

6. Section 232(2) of the Karnataka Village Panchayat and Local Boards Act, reads as :

"No suit or other legal proceedings shall lie against the Government, the Commissioner, Deputy Commissioner, Assistant Commissioner, Tahsildar or any other Officer or Government or a Panchayat or Taluk Board or any member, officer, servant or agent of such Panchayat or Taluk Board acting under its direction, in respect of anything done or purporting to have been done lawfully and in good faith under this act or any rule, bye law, regulation or order made thereunder."

Defendants 1 and 2, while trying to carry cut the order of the Assistant Commissioner, are purporting to act in good faith and as servants or agents of the Assistant Commissioner. Therefore, Section 232(2) of the Karnataka Village Panchayat and Taluk Boards Act, bars the suit of the present nature. Therefore, issue No. 4 was rightly held against the plenty and the Trial Court was justified in dismissing the suit. Therefore, the order passed by the Court below needs no interference. The revision is dismissed.