

IN THE HIGH COURT OF KARNATAKA, BANGALORE

DATED THIS THE 25TH DAY OF MARCH 2010

BEFORE

THE HON'BLE MR. JUSTICE RAVI MALIMATH

W.P.NO.5772 OF 2009 (GM-CPC)

BETWEEN:

SRI.JOSEPH PAUL, 46 YEARS,
S/O SRI.P.U POULOSE,
RESIDING AT BEHIND MEENA
NURSING HOME,
MADHAVANAGARA,
BHADRAVATHI.

.. PETITIONER

(BY SRI.K.S.SREEKANTHA, ADVOCATE)

AND:

SRI.RAMACHANDRA RAO GAIKWAD,
S/O SRI. N.K.GAIKWAD, 48 YEARS,
RESIDING AT UPPER HUTHA,
2ND CROSS, BHADRAVATHI.

..RESPONDENT

(BY SRI.S.V.PRAKASH, ADVOCATE)

THIS WRIT PETITION FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA TO QUASH
THE ORDER/ARREST WARRANT, ISSUED TO THE
PETITIONER DATED 9.2.2009 IN O.S.NO.118/2008 BY
THE LEARNED CIVIL JUDGE (JR.DN), AT BHADRAVATHI
VIDE ANNEXURE-D ETC.

THIS WRIT PETITION COMING ON FOR PRELIMINARY
HEARING IN 'B' GROUP THIS DAY, THE COURT MADE THE
FOLLOWING:-



ORDER

Aggrieved by the order directing the petitioner/defendant to furnish a security for Rs.2,50,000/- and on his failure to be dealt with the order in accordance with the Order 38 Rule 4 of CPC, this petition is filed.

2. The learned counsel for the petitioner submits that irrespective of the contentions regarding the merits of the impugned order, he pleads that this Court may modify the order permitting him to furnish a surety for the said sum. He submits that the petitioner is ready and willing and would forthwith furnish a surety for the said sum to the satisfaction of the Trial Court.

3. The learned counsel for the respondent defends the impugned order and submits that no interference is called for.

4. It is the specific case of the petitioner that he is not in good financial condition. However, he has made adequate arrangements to



furnish a surety for the said sum. By furnishing the surety, the interest of the respondent would be adequately protected. In view of the economic condition of the petitioner and in view of the submission that a surety would be offered and in view of the facts and circumstances involved in this case, it would be just and necessary to modify the said order.

5. For the aforesaid reasons, the order of the Court below is modified to the extent of directing the petitioner/defendant to furnish a surety for a sum of Rs.2,50,000/- to the satisfaction of the Trial Court within two weeks from the date of receipt of a copy of this order. The rest of the order remains undisturbed.

6. Petition disposed off.

Msu

Sd/-
JUDGE