

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 01st DAY OF OCTOBER 2002

BEFORE

THE HON'BLE MR. JUSTICE N.K.PATIL

CRP NO 4199 OF 2000

BETWEEN

1 K N PRAVEEN
S/O K P NARASIMHA SHET
32 YRS, NO 5-101, SHET JEWELLER
MAHADEVPET, MADIKERI-571 201
KODAGU DIST.,

... PETITIONER

(By Sri. HEGDE ASSOCIATES, ADVS.)

AND :

1 MANIPAL HOUSING FINANCE SYNDICATE LTD
HAVING ITS HEAD OFFICE AT
MANIPAL BRANCH AT MADIKERI,
REP. BY ITS MANAGER,
MADIKERI BRANCH,
MADIKERI, KODAGU DIST.,

2 K N ARUN
S/O K P NARASIMHA SHET
30 YRS, R/O 5-101, SHET JEWELLER
MAHADEVPET, MADIKERI

3 K P NARASIMHA SHET
S/O K P PADMANABHA SHET
66 YRS, R/O 5-101, SHET JEWELLER
MAHADEVPET, MADIKERI

4 K N RAVIKALA
W/O K P NARASIMHA SHET
56 YRS, R/O 5-101, SHET JEWELLER
MAHADEVPET, MADIKERI

5 K N SURESH - Deleted
S/O K P NARASIMHA SHET
56 YRS, R/O 5-101, SHET JEWELLER
MAHADEVPET, MADIKERI

6 S B KISHORE KUMAR
S/O S BALAKRISHNA
34 YRS, R/O 5-101, SHET JEWELLER
MAHADEVPET, MADIKERI

... RESPONDENTS

(By Sri. A R DESAI, ADV. FOR R1)

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THIS CRP IS FILED U/S.115 CPC AGAINST THE
ORDER DATED 20.10.2000 PASSED ON IA NO.1 IN
EX.NO.85/99 ON THE FILE OF THE CIVIL JUDGE
(SR.DN.), MADIKERI, ALLOWING IA NO.1.

THIS CRP COMING ON FOR HEARING, THIS DAY,
THE COURT MADE THE FOLLOWING:-



ORDER

This revision petition is directed against the order dated 20th October 2000 on I.A.No.I in Execution No.85/99.

2. The principal submission of the learned counsel for the petitioner is that, the matter had come up for orders on 20th October 2000. On that day, the case was called. I.A.No.I with two documents has been filed and a prayer was made for sale proclamation. Accordingly, I.A.No.I filed by the respondent was allowed and issue of sale proclamation and sale warrant has been ordered. The matter was again listed on 4/8.12.2000. He further submits that I.A.No.I filed by the respondent had not been served to the petitioner and no opportunity was given. As per the relevant provisions of CPC, the respondent is bound to serve a copy of I.A.I to enable the petitioner to file his objections. But, in the instant case, the Court below without service of copy to the petitioner and without hearing the petitioner, has passed the order on I.A.No.I. Therefore,

he prayed that the impugned order passed by the Court below is liable to be set aside.

3. Per contra, learned counsel for the respondent, interalia, justified the impugned order passed by the Court below. He submitted that though an opportunity given to the petitioner, he has not paid the decretal amount. Thereafter, the respondent was bound to make appropriate application. Accordingly, the said application was filed before the Court below along with two documents and prayed for issuance of sale proclamation and sale warrant. Accordingly, the Court below has fixed the sale on 4/8.12.2000. He submits that the trial Court has rightly passed the impugned order on I.A.No.I and the petitioner does not deserve any sympathy from this Court.

4. I have heard the learned counsel for both the parties and perused the impugned order passed by the Court below. As rightly pointed out by the learned counsel for the petitioner, it is not coming forth from the impugned order whether notice on I.A.No.I was served on the

petitioner or his counsel or not nor he has been heard by the Court below. On this short ground, the impugned order passed by the Court below is liable to be set aside.

5. For the foregoing reasons, the revision petition is dismissed.

6. The impugned order passed by the trial Court on 20.10.2000 on I.A.No.1 in Execution Petition No.85/99 on the file of the Civil Judge (Senior Division), Madikeri, is hereby set aside. The matter ^{stands} ~~is~~ remitted back to the Court below to proceed with the matter in accordance with law ^{after} giving opportunity to both the parties and pass appropriate order in accordance with law as expeditiously as possible not later than three months from the date of receipt of this order.

bnv/-

Sd/-
Judge