

IN THE HIGH COURT OF KARNATAKA
CIRCUIT BENCH AT GULBARGA

BEFORE

THE HON'BLE MR. JUSTICE L.NARAYANA SWAMY

DATED THIS THE 28TH DAY OF JUNE 2011

CIVIL REVISION PETITION NO.2048/2010

BETWEEN:

Veeranna S/o Siddalingappa Shetagar,
Age: Major years, Occ: Agriculture,
R/o: Shri Malikarjun Electrical and
General Store Talikoti,
Tq. Muddebihal. ... PETITIONER

(By Sri. Shivanand V. Pattanshetti, Adv.,)

AND:

Madivalappa S/o Siddappa Narasanagi,
Age: about major years,
Occ: Agriculture,
R/o Muddebihal. ...RESPONDENT

(By Sri. Ameet Kumar Deshpande, Adv.)

This Civil Revision Petition filed under Section 115 of CPC R/w Section 18 of the SCC Act, against the Order dated 19.12.2009 passed in S.C. No.01/2001 on the file of the Civil Judge (Sr. Dn.) at Muddebihal, partly allow and decreeing the petition.

This Petition coming on for Final Hearing this day, the court made the following:-

ORDER

The respondent filed S.C. No.01/2001 on the file of the Civil Judge (Sr. Dn.) Muddebihal with a prayer for recovery of money. The Small Cause Court by its Judgment dated 19.12.2009, decreed the petitioner herein to pay Rs.15,000/- at the rate of 6% interest till entire amount is paid against which, he preferred this petition.

2 It is contended by the petitioner that he had filed I.A No.II under Order 26 Rule 10-A of CPC for sending the disputed signature of 01.12.1995 to the Government Finger Print Expert for examination and report. The said application was dismissed on 17.06.2000.

3. It is submitted that if the application filed by the petitioner in I.A No.II was allowed the truth would have surfaced. He has stated the reasons for not forwarding the signature to the Finger Print Experts on the ground that he is a literate person, studied B.Com. is not proper. Contrary to the same in the Kaigada Patra dated 01.12.1995 it contains only the thumb impression. He

✓

has not signed or put his thumb impression. Under these circumstances, the Court committed an error in dismissing I.A No.II.

4. On behalf of the respondent, the learned counsel submitted that all the defence taken by the petitioner has been considered by the Small Cause Court and the suit has been decreed. The case is of more than 10 years old. Under these circumstances, if it is remanded, it will further delay.

5. Heard the both.

6. I have gone through the Judgment of the trial Court. The reasons assigned in dismissing I.A No.II is improper. A decision on I.A No.II depends upon the fact of the case and it is also to the Court to pass a fresh order.

Accordingly, the order of the Small Cause Court is set aside and I.A No.II filed by the petitioner is allowed, the case is restored to file and both the parties are directed to appear before the Small Cause Court on 20.07.2011 without awaiting any notice. Since it is very old matter, the Court is directed to dispose of at an early

date not more than 6 months from the date of receipt of copy of this order.

Accordingly, petition is disposed of.

Sd/-
JUDGE

LG