

Karnataka High Court

Sri Manianjinappa vs Smt Nayrayanamma on 6 September, 2010

Author: A.N.Venugopala Gowda

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 6th DAY OF SEPTEMBER,

BEFORE

THE HON'BLE MR. JUSTICE A.N.Venugopala Gowda, JGG'AL'A"V530W'f5_A

WRIT PETITION NO.1V8343?2_0:'iAOE' '(G:§i'-five; ,

BETWEEN:

Sri Manianjinappa,
Aged about 70 years, _
S/o. late Millappa, _ , '
Residing at Narayan Apt;u_Ara vii{ag_e,«.[]~.,_
Jala Hobli, Barjgaifme North 'T'aIul'<;,,_
Bangalore Ru'r'a'_E._Di-st;7ict;..~.,__'*-._ »

f = " :PETITIONER

(By Sri M' ;'B..E§'a;tacj:ii:n~d F0'? F

Sri, S.D.N'.'PrasVa'ci,&.Sri._M._N50thesh, Advs.)

AND:

1. " _-' ;r'rrt.._ .Nayrayanamma, :
,"A"e:;ecl about 60 .y.e.a:'s,

W/o"'.Ffiateayfianjundappa.

I "Aged a~bf;m5't 40 years,
"S/0, __v' |'ate~"Nanjundappa.

3., Sr} =Si'In1Vas @ Seena,

"Aged about 23 years,

E S5/o. late Nanjundappa.

. Sri Nagarina, V

Kum. Kalavathi @ Baby,

- Aged about 21 years,

We. iate Nanjundappa.

Ali are residing at
Narayanapura viliage,
Jala Hobii,

Bangaiore North Taluk.

. Smt. Bachamma,

Aged about 43 years,

E3/o. iate Nanjundappa.
Residing at Mavalipura,
Yelahanka Hobii,
Bangaiore North Taluk.. 5

Aged about 42 years, A
S/o. late V?i'shi\$;anatf:ap€pa",

Jala Home, Bari--g~a'~io're.:_N_orth Tai:T.'i;;i<,,,

. Sri:.ii>utta';j'pi;-1} H

Aged about 60ffy..ea»rsV,' ' ;
S/o. tare' Byra.ppa'<

. Sri «Krishiriagopaf

Aigedi'about S';'E.y_e_ars,

, VS/o.5»~.'iate Byrappa,
"5.0th_ are..residing at
.. ..iBaish.E:tti'ha'i!iviilage,
i<asaba".'Ho'bii,
-D__odda~h_a,i.iapura Taiuk.

» . Srri'i:..,_Rathnarrirria,

.. 'Aged about 36 years,

* .._W./o. Ramakrishnappa,
Residing at Thippenahalii,

Tubugere Hobli,

Doddabaiiapura Taiuk.

plaintiff filed R.A.S1/06 in the Court of Civil Judge_.._(Sr.

Dn.), Bangalore Rural District. In the appeai, app-eila,n«t:"+,A,

petitioner filed an LA. under 8.340 Cr.P.C. *

of CPC to hold an enquiry regarding the tarlperinrgifi, otloéwer-._, 'Au
court records and make a written complaint:

jurisdictional police against the person's illegal * C'

insertions in the evidence of P, vt1e3';', vTo~. the.saiti_application,
objections were filed The Court
below has held that it is not maintainable
and the appeal proceedings as
alleged, in the appeal; it is to the notice of the
Court of PW-3. However, it

has held that the appeal is void of

melvitand hasuidi'-sm__issed the same. Said order has been

questioned 'in the writ petition.

C' 2. _ Naragund, learned advocate appearing

'*_ for the petitioner would contend that, the Court below has

"in view of material error and illegality in dismissing the

application. Learned counsel submits that, if the

it»

an-

application was not maintainable before the appellate

Court as observed by it in the impugned order, the

open to it was to have sent the records of the

application to the Trial Court for appropriate action

Instead of doing so, the finding

devoid of merit and its dismissal is wholly

3. Sri S.A. Khadga, learned advocate appearing for
the respondents, invited objections

filed to the writ petition in support of the Court below in the impugned order. EV
it

4. C' 4Hrea'rd.«Vt'he ;iea':ri*.éd counsel for the parties. I havegperused the 'viiritiivpetition papers.

--.IA:n'di_sputediy, the record aiieged to have been "tarn'pieredAV""Ti's.. tpheviideposition of PW-3 recorded by the Trial 'V Court." Ivfathere were to be any tarrapering, the same has to CC}},b'e'estabiished before the Court whose record aiiegeciiy has beeniitampered with. It is not the case of the petitioner "that after the record of the Triai Court Yeas received by the /"

.u appellate Court, the tampering in the deposition of 9_ \N--3 has been made in the appellate court or office.«j'o.f'j'<.tlhe' appellate Court. If the alleged tampering place during the pendency of the».rnattter'VV'4"b:éjfore.' _ ' _the. _ appellate Court, the Court below has righ'tiy the applicant should approac'rl'.--_,:t_ 'h~::~.=.V_ Trial Courtlvfor:._;reivi.eff To = C' the said extent the appellateV,,C-ojuggrtis_justified, in; holding that the applicant shouldliahppioafcivts Court before which the alleged lliiowever, the further order' is devoid of merit uncalled for. If the applica:t.i_on 4' -wasTj~%.ljutrQ□aintainable in View of the observationshiimaVde,V'either it could have disposed of the application,perriii»tti_ng,'the appellant ~ plaintiff to make an 'approp--.r_iai:e«appglication before the Trial Court or ought to .ha'vei'svenVt". "t.he::.'application to the Trial Court for necessary action'. ""v.I,n"not doing so, it has committed an irrational act and-._the""impugned order to the said extent is illegal. C In the result, the writ petition s%:::1ds allowed. The impugned order dismissing the applicationfiled by the petitioner as devoid of merit stands quashed;'~fff.._l'~i~_ It is open to the petitioner - p|ain.t'iiif2toieffiiiei-----.:.'~ aPDlication in the Trial Court and seel<vor,der_s,Vm' 2' The court below shall ,takeA1'cei'ti_tied of" deposition of PW~3 and Exs.P-2□a,nd "P2o a.n_'d 'place the 'V 2 same on record of the arid" ""(')l.'~.i.ginal'd'eposition of PW-3 and Exs.P2 and ,A'jt;:he". _ _Tria| Court in sealed cover to consider the application plaintiff, within two wee ks from iii '* 2 it 1 the application if so advised, before, time, the appellate Court shall . .°*taVl<"e-- the""i*.e'rtified copies of Exs.P2 and P2o and deposition same on record of the suit and the orig.i_\nais~ ~th'e--reof be sent immediately in sealed cover to 'E'r.'ia,l:::Court. The Trial Court is directed to take up the 2.2'?-.,appljiE:ation for consideration on 22.9.10. Both parties shall \ /' NF