

Karnataka High Court

Smt S Meenakshi vs The Manager The Hiriyur Urban ... on 5 September, 2008

Author: N.Kumar

In mm Hm; corner or 4,
Dated this the 5* day ? « * '«
BEFORE %
THE HOH'1!i\$ nn:;V.%-.: \$is;s'3»'xamv%x
Writ Pgutgon

Smt. Smecnakshi ' _
w/om;
Aged about 369Jyca,r3 _ _ --
Occ; Héust 'Hold "

R/0 Bhazati Bead; ' %

Tq. &..I_)isL C1

B Dmhpandc, Advomte)

1* _ '
The iiriiriyur Urbeuzt
~Cr'r:operative Bank Limited
" Cizuitradurga District

' The Hiriyux Urban Co-operative Bank Limited
Hiriyur
Chitxadurga District

3 Sri D N Shcshachalam Shetty
8/0 D Narayana Shetty
Aged about 60 years

R/0 M/s Kaipana Printers
Dist. Chitrasdurga _ ...R\$sp9nd::nts
(By Smt. Aaha mam; 'H(_"3.Gf'i;

This Writ Petition' 55 am, ' mi and 227 of
the Conatimtion of India, quash the itxnpumod
attachment notice dated 13--8--'20€}8 the respondent
Nu.2, in E. P. No.A119/04«Q5_ p;xx1w;ea'e..t

I'hls' 'p:n\$hm1nfuy' ' hearing' this
day, the '

Tim ';;cfiti€1;it~.;\$fjV'@.:j3z\$-&.fcrred this Writ Petition mm;
quashjng of attachment notice dated 18.8.2008

.....

claims that she is the absolute owner of the Sy. No. 24/ 1AIAIF measuring 23 guntas .aimgt\$dv%«\$t Ycradakatte Village, Imangala Hobli, I-Iriyur Taluk. V' gi□d to her by her father along with other property __, \11\$1ci¢:x* the registered gift deed dated 21.8.2003 as per Annexure-A. Petitioner's father-the third respondent herein, obtained a loan from the 1st respondent bank by mortgaging the house property. He committed default in repayment of the same. Proceedings were initiated by the bank. a party to the said proceedings. An affidavit in execution of the said award of the petitioner is attached. It: 1;;

challenged in this Writ petition; F»%«%t□at iegwpmcny attached was not mortgaged further to the bank. Petitioner is to: Vt\$X;¢\$7 1ié2ioocedings which mentioned belongs to the property is wrongly obtained against her father.

Therefore, "cancellation of the said attachment in this "

Section 101 of the Karnataka Cooperative Societies Act-1961 v§i£h' Rule 41 of the Karnataka Cooperative provides "1" invocation of claims to the Court provides, when: any claim is presented to the Court for investigation or objection is made to the attachment of any property "ii In accordance with these rules, on the ground that such property is not liable to such attachment, the Sale Officer shall investigate claim or objection rejecting or allowing the claim and: 1" to: f hét attachment made. However, iii;

the sale officer is to make or after the date fixed for sale of the claim. If the said property is officer is vested with the pending investigation or objection. officer is against the is given the right to file:

a suit the date of such order to the competent Civil Court. Therefore, the ' - f)i{¥Vid.(\$ 'E-; exhaustive remedy for investigation of attachment. By the impugned notice at property of the petitioner is attached. It is yet to be for sale. '□'hcmfor, it is open to the petitioner to file a claim before the Sale Officer and the Sale Officer shall ' 1; iJ:\rc:-¥: investigate the said claim if such a claim is made. when the " Wpetitioner has an alternate and efficacious remedy, it is inappropriate: for this Court to entertain this petition.

∖/, Accordingly, petition is dismissed reserving petitioner to avail the alternative remedy. »' N ck!