

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 5th DAY OF SEPTEMBER, 2001

BEFORE

THE HON'BLE MR.JUSTICE M.P.CHINNAPPA

C.R.P. NO.1060 OF 2000

BETWEEN

1 M SHANKARANARAYANA
S/O K.HANUMANTHAPPA
PROPRIETOR, SHANKARANARAYANA SILK
FACTORY, NO.45 B, GUBBANNA INDUSTRIAL
ESTATE, 6TH BLOCK, RAJAJINAGAR
BANGALORE-10 ... PETITIONER

(By Sri. RAMESH ANANTHAN)

AND :

1 BHAGYALAKSHMI
W/O SHANKARANARAYANA
MAJOR, D/O T.KRISHNAPPA
NO.1216, 3TH CROSS
6TH BLOCK, RAJAJINAGAR
BANGALORE-10

2 M/S G K B LENS (BANGALORE PVT LTD
NO.45B, GUBBANNA INDUSTRIAL ESTATE
6TH BLOCK, RAJAJINAGAR
BANGALORE-10
REP. BY ITS DIRECTOR SUNIL P PAREKH
... RESPONDENTS

(By Sri. B BHAVANI SHANKAR RAO for R-2)

This CRP IS FILED U/S.115 CPC AGAINST THE
ORDER DATED 15.11.99 PASSED IN EX.NO.415/93 IN
O.S.NO.1470/90 ON THE FILE OF THE XIX ADDL.CCJ,
BANGALORE, ALLOWING THE APPLICATION filed U/O 21
R. 101 r/w S. 97 & 151 CPC AND DISMISSING THE
EXECUTION PETITION.

This petition coming on for
orders this day, the Court made the following:

ORDER

I.A.I is allowed. Delay of one day in filing the revision petition is condoned as the respondent has no objection. By consent of both parties, the matter is heard on the main petition itself.

2. The petitioner had obtained a decree against the 1st respondent for damages and also possession of the suit schedule property in Ex. Case No.415/93 and there was a specific order not to disturb the possession of the 2nd respondent herein. However, the 2nd respondent filed an application as an obstructor to the execution of the decree on the allegation that he is in possession of the property. While upholding the contention of the 2nd respondent, the Court below has dismissed the execution petition itself. This order is patently illegal which calls for interference.



3. Under the circumstances, the petition is allowed. The impugned order is set aside directing the Court below to restore the execution case on file and proceed with the execution in sofaras R-1 is concerned, without disturbing the 2nd respondent's possession.

Sd/-JUDGE

SAK/060901