

SUPR EME COUR T OF I ND I A
RECORD OF PROCEEDINGS

BEFORE THE REGISTRAR S.G. SHAH

Petition(s) for Special Leave to Appeal (Civil) No(s).31510/2008

(From the judgement and order dated 25/07/2008 in CRP No. 726/2002
of The HIGH COURT OF KARNATAKA AT BANGALORE)

STATE BANK OF MYSORE

Petitioner(s)

VERSUS

K.S.IYENGAR'S S.H.H.D.TRUST & ORS.
(With prayer for interim relief)

Respondent(s)

Date: 13/07/2011 This Petition was called on for hearing today.

For Petitioner(s)

Mr. Ram Lal Roy, Adv.
Mr. R.N. Keshwani, Adv.

For Respondent(s)

Mr. Ashok Kumar Singh, Adv.
Mr. Ankur S. Kulkarni, Adv.

UPON hearing counsel the Court made the following
ORDER

It is very unfortunate that at least for one of the
respondent being respondent no. 5 namely Shivabasappa s/o
Venkatappa, r/o Door No. 937/3, Ist Smain Lakshmipuram,
Chamaraja Mohlla, Mysore, Karnataka, there is an endorsement by
Postal Authority while returning the notice forwarded by
registered post that "deceased" on the front side of the envelop and
there is detailed endorsement on the back side of

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the envelop that "addressee deceased and hence returned to the
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sender" on 9 March, 2011. However, one Mr. S. Nagaraj, S/o
Rangappa, stated to be Branch Manager of the State Bank of Mysore

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has filed a service affidavit on 26 April, 2011 which is sworn
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by him on 23 April, 2011 before a notary at Mysore stating as
under:

"I further state on oath that the remaining 5 (five) respondents
i.e.1) Shri Karibasappa - Respondent No. 1 ; 2) Shri Shivabasappa -
Respondent No. 2; 3) Smt. Parvathamma - Respondent No. 5; 4)
Shri Nithyananda alias Papanni Respondent No. 6 and 5) Mis Sheela
- Respondent No. 7 all have refused to receive the Hon'ble Supreme
Court Hand Summons. The said hand summons was refused while
serving along with Recovery Agent of our Bank Shri Anil Kumar S/
o Shri Kariyappa, aged about 42 years, Officer in charge of their
Mysore officer, Messrs. P.T. Security Services, Renuacharaya
Temple Road, Near Lakshmi Theater, Mysore." It is very much
surprising that an officer of the Bank has stated on oath before this
court that person has refused to accept the notice, whereas for the
same person postal endorsement states that he is deceased.

Similarly for some other respondents though postal

authority says that addressee has left the address and therefore notices were returned back to the court, in the same affidavit the same person has disclosed that all such respondents have refused to accept notice.

All this information with appropriate compilation be placed before Hon'ble Judge in Chambers for taking necessary action if deemed fit against such person who has filed such affidavit before this court.

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Now, it is not a new story for this bar to know the provisions of CPC, whereby there is perfect procedure enacted for such cases when dasti service is refused by any litigant. There are several orders during the last couple of years in such cases wherever there is a disclosure that respondent has refused to accept notice during dasti mode, that in such cases litigant has to follow procedure laid down in CPC whereby it is provided that in all such cases litigant has to take help of the nearest Civil Court and if any party refused to accept the notice, then notice shall be affixed at the given address in the presence of two witnesses by the process server of the court and report is to be filed as prescribed under the CPC with an affidavit. A detailed order was passed in SLP(c) No. 24765 of 2004 on 16.3.2007 however, advocates are without following procedural law as explained in such order, pressing to consider improper service as deemed service. Such request cannot be accepted.

It is difficult to believe that bank or its legal officers and advisors are not aware about this provision. Therefore, filing such affidavit before this court is an attempt to deceive the court to believe that service may be considered as duly served though they are not duly served.

List before the Hon'ble Judge in Chambers as directed hereinabove.

(S.G. Shah)
Registrar

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