

## **M/s. Vasanth Colour Laboratories Ltd. Vs Smt Divya Devi and Karnataka State Financial Corporation**

**Court:** Karnataka High Court

**Date of Decision:** April 12, 2011

**Acts Referred:** Civil Procedure Code, 1908 (CPC) â€” Section 151, 21, 24, 89

**Hon'ble Judges:** S.N. Satyanarayana, J

**Bench:** Single Bench

**Advocate:** S.P. Shankar, Adv, for Kaveri Thimmaiah, Indus Law, for the Appellant; H.V. Nagaraja Rao, for R1 and M/s. Gururaja Joshi and Co. for R2, for the Respondent

**Final Decision:** Allowed

### **Judgement**

@JUDGMENTTAG-ORDER

S.N. Satyanarayana

1. This petition is filed u/s 24 of CPC by the plaintiff in O.S.3396/1996 and O.S.62/2006, and defendant in O.S. 836/1981, seeking clubbing of

aforesaid suits, O.S. 836/1981 is suit for ejectment, O.S. 3396/1996 is filed seeking specific performance of certain terms of settlement said to

have arrived at between the parties to said suit and O.S. 62/2006 is for seeking extension of the period of lease of the property, which is the

subject matter of all the three suits and between the same parties.

2. When this petition was taken up for admission, the learned Senior Counsel Shri. S.P. Shankar, appearing for the petitioner, who is tenant of the

property in dispute in all three suits, fairly submitted that, the dispute between parties is fit for settlement. Hence, sought permission of this court to

explore the possibility of settlement through proper counseling. Hence, the above petition was adjourned on last date of hearing.

3. Today, when the matter was called again the counsel on record for both the parties stated that, under the guidance of Learned Senior Counsel

Sri. S.P. Shankar, the parties have settled all the dispute in respect of tenanted property in terms of compromise petition filed by them before this

Court in Misc. Cvl. 8517/2007, under Order 23. Rule 3 read with Section 89 and 151 of CPC.

4. In terms of the compromise arrived at between the parties, this petition for clubbing O.S. 3396/1996, O.S.62/2006 and O.S.836/1981,

pending on the file of the court below is allowed. It is directed that all the three suits should be taken up together for disposal by the Additional City

Civil Court (CCH-9). All three aforesaid suits should be called on 19.04.2011, in CCH-9 to receive the compromise petition, which is entered

into between the parties on same terms on which the compromise petition is prepared and filed along with Misc. Cvl 8514/2011 in this petition,

which is taken on record by this Court.

5. The City Civil Court (CCH-9) is directed to dispose of all three suits in terms of the said compromise petition, granting time to the petitioner

herein, namely, M/s. Vasantha Color Laboratories Limited to vacate and handover the vacant possession of suit property in all the three suits to

the first respondent, Smt. Divya Devi on or before 30.04.2015.

6. While disposing of the said suits, the court below should also direct that the landlord in said suit should not disturb the possession and enjoyment

of the tenant over suit property during the subsistence of tenancy till 30.04.2015 in terms of compromise petition. The tenant, M/s. Vasanth Color

Laboratories Limited, shall pay rent of Rs. 1,50,000/- per month with single default class from 01.05.2011, and it shall be subject to 5%

enhancement once in 2 years on last paid rent. The tenant should vacate and deliver vacant possession of suit schedule property to the landlord on

or before 30.04.2015, without seeking extension of time and without forcing the landlord Smt. Divya Devi to file execution petition to secure

vacant possession and not to create third party interest over the suit schedule property. These conditions should be included by the Trial Court

while disposing off the said suits in terms of settlement.

7. It is further ordered that since the aforesaid settlement is in terms of the 89 of CPC, the plaintiffs in each of the suit is entitled to repayment of full

court fee as held by the division bench of this court in the matter of A. Sreeramaiah Vs. The South Indian Bank Ltd., ,

8. This petition is allowed in terms of compromise arrived at between the parties and with the aforesaid directions to the City Civil Court (CCH-9)

to dispose of all the three suits in terms of the compromise petition to be filed by the parties before the City Court on 19.04.2011, and also subject

to the direction issued by this court.