

Krishna Jetty Vs. the State of Mysore and ors.

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Court : Karnataka

Decided On : Nov-08-1971

Reported in : AIR1972Kant175; AIR1972Mys175; (1972)1MysLJ40

Judge : A. Narayana Pai, C.J. and ;V.S. Malimath, J.

Acts : Mysore High Court Rules - Rule 5 and 5A; Court-fees Act; [Code of Civil Procedure \(CPC\), 1908](#)

Appeal No. : Writ Petn. No. 383 of 1971

Appellant : Krishna Jetty

Respondent : The State of Mysore and ors.

Advocate for Pet/Ap. : K.S. Sarya Murthy, Adv.

Judgement :

Narayana Pai, C.J.

1. This matter is posted for orders as to the correct calculation of process fee and postal charges to be paid in cases where service is sought to be effected on a government servant through the head of his department.
2. Ordinarily service has to be made directly on the Government servant impleaded as the respondent either through personal service like summons in a suit or through pre-paid registered post.

3. Where large number of Government servants are impleaded as respondents and difficulty is felt by the petitioner in tracing their correct address (because government servants are liable for transfer) provision is made under Rule 5-A of Chapter XIII of the Mysore High Court Rules for effecting service on government servants through the head of the department. The said rule reads:--

'5-A. When the service is to be effected on a government servant, the court may, on an application made for the purpose, direct that the notice shall be sent to such government servant through the Head of the Department concerned (to whom such notice may be forwarded by registered post) for service. The party seeking such service shall furnish, along with his application, postal covers containing the correct name and designation of the Government servant and of the head of the department concerned on whom service is to be effected. and also the postage stamp sufficient to cover registration charges'.

If there is no interposition of the head of the department and service is sought to be effected through registered post, what is payable is process fee as prescribed under the Rules made by this court under the Court-fees Act which in the case of an ordinary notice is Rs. 1-50 and in the case of emergent service is Rs. 2/-. Provision is also made in Rule 5 of Chapter VI of the High Court Rules that where service is sought to be effected by registered post, the party in addition to paying the process fee should also produce as many envelopes and postal acknowledgement forms as there are respondents to be served and that the names and addresses of the respondents to be served should be written on the envelopes and acknowledgment forms.

4. The result of these rules is that the process fee of Rs. 1-50 or Rs. 2/- as the case may be, paid for service covers the expenses of postage incurred when the notice is sent by registered post.

5. Where, however, the service is sought to be effected through the head of the department, the head of the department not being a party to the proceedings, there is no question of collecting process fee or trying to serve on him with the notice of the proceeding. His assistance is sought as is done under the Code of Civil Procedure for service of notice. If the government servant sought to be

served is in the same office as the head of the department he is expected to himself cause service and return the duplicate to the court endorsing the completion of the service. If the government servant sought to be served is not work-ins in the same office but elsewhere, it is his duty to find out where the Government servant sought to be served is serving at the time and send the notice by registered post to him.

6. Whether the service by the head of the department on the government servant is personal or by registered post, the appellant or the petitioner, as the case may be, who seeks such service to be made is to pay appropriate amount of process fee together with addressed covers and acknowledgements.

7. The postal charges which Rule 5-A requires the payment of are the charges incurred in sending the notice or notices, as the case may be to the head of the department and will depend upon the weight of the bundle sought to be sent.

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