

Mahaveera Vs. Mangaraj

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Court : Karnataka

Decided On : Feb-27-1987

Reported in : ILR1987KAR1940; 1987(1)KarLJ312

Judge : Murlidher Rao, J.

Acts : Karnataka Rent Control Act, 1961 - Sections 30; [Code of Civil Procedure \(CPC\) , 1908](#) - Order 21, Rules 38, 58, 97, 99 and 103; Code of Civil Procedure (CPC) (Amendment) Act, 1976

Appeal No. : C.R.P. Nos. 3518 and 3519 of 1987

Appellant : Mahaveera

Respondent : Mangaraj

Advocate for Def. : C.R.V. Swamy, Adv.

Advocate for Pet/Ap. : V. Tarakaram, Adv.

Disposition : Petition rejected

Judgement :

ORDER

21 RULES 58, 97 and 99 AS AMENDED -- Order passed under Order 21 Rule 58(4) treated as decree -- Questions of right, title and interest in proceedings under Rules 97 or 99 to be decided by the concerned Court; separate suit barred

-- After amendment no suit dealing with identical issue covered by Rules 58, 97 and 99 --suit not maintainable ; remedy only under Order 21.

In execution, prior to 1976 amendment, two types of suits were contemplated: They are - 1) Order 21 Rule 6.3 and 2) Order 21 Rule 103. After amendment such suits cannot be entertained. The order passed under Sub-section (4) of Order 21 Rule 58 is treated as a decree ; similarly all questions of right, title and interest, decided in a proceeding under Rule 97 or Rule 99 shall be determined by the Court dealing with these Petitions and separate suit is barred. Resultant position is, after the 1976 amendment there cannot be a suit dealing with the identical issue, which is covered by Order 21 Rules 38, 97 or 99. If such a suit is filed, it is legally not maintainable and the only remedy available to the party would be to take steps as per Order 21.

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