

Krishna Vs. Sanjeev

Krishna Vs. Sanjeev

SooperKanoon Citation : sooperkanoon.com/383408

Court : Karnataka

Decided On : Jul-14-2003

Reported in : ILR2003KAR3716

Judge : N. Kumar, J.

Acts : [Code of Civil Procedure \(CPC\) , 1908](#) - Sections 151 - Order 13, Rule 4 and 4(1) - Order 18, Rule 4; Code of Civil Procedure (CPC) (Amendment) Act, 1999; [Code of Civil Procedure \(CPC\) \(Amendment\), 2002](#); Karnataka Stamp Act - Sections 34 and 35

Appeal No. : W.P. No. 29882/2003

Appellant : Krishna

Respondent : Sanjeev

Advocate for Pet/Ap. : S.B. Hebballi, Adv.

Disposition : Writ petition rejected

Judgement :

ORDER

13 RULE 4(1)--Prescribes that there shall be an endorsement on every document which has been admitted in evidence in the suit--Can such endorsement be considered sufficient to hold that the document has been admitted. Held--The

endorsement shall be signed and initiated by the Judge. The document lacking the last requirement cannot be said to be admitted in evidence. The mere fact that the endorsement on the document as required under Order 13 Rule 4 CPC has been made should not in every case be considered sufficient to hold that the document has been admitted. Placing the Judge's initials on a document by a third person by means of a rubber stamp cannot amount to initialing by the judge.

(D) CIVIL PROCEDURE CODE, 1908 (CENTRAL ACT NO. 5/1908) - Meaning of production of document, admitting the said document in evidence, marking of the said document which is admitted in evidence and proof of such document. Held-- At the time of admitting the document in evidence it is open to the opposite party to raise objection regarding the admissibility of the document and if objections are raised, the Court is under an obligation to decide the said objection. It is after the said objection is decided by the Court and if it decides to receive the document in evidence, the said document is marked for the purpose of identification. Thereafter the proof of said document would arise. After the evidence is adduced or the final hearing, it is open to the parties to address arguments regarding the admissibility of the document, to the relevancy of the document and proof of said document and the Court will decide all these questions in the course of its judgment. (Para 13)

(E) CIVIL PROCEDURE CODE, 1908 (AMENDMENT ACT OF 1999 AND 2002) - Proper procedure to be followed by Courts in respect to examination-in-chief and production and marking of documents and in respect of affidavit evidence. Held: a) When the case is posted for evidence, the examination-in-chief of a witness shall be on affidavit unless ordered otherwise.

b) When the affidavit is sought to be filed on the date the case is posted for evidence, the Court should insist that the witness whose affidavit is sought to be filed enters the witness box, takes oath and thereafter he/she shall handover the affidavit containing his/her examination-in-chief to the Court. In other words, the Court should not receive the affidavit containing the examination-in-chief of a witness by his/her Counsel, thus preventing the possibility of the witness disowning such affidavit.

c) After the affidavit is received through the witness, the Court shall call upon the witness whether he/she has any documentary evidence to tender and if the witness tenders any documentary evidence, the same shall be received by the Court subject to objection raised by the opposite party,

d) If objections are raised, the Court should judicially determine the question whether it can be admitted in evidence or not, then and thereof if the objection relates to insufficiency of stamp duty. If the objection is on any other ground, the Court shall follow the procedure as laid down in the case of K. Anjaneya Setty v. K.H. Ranganath Setty reported in ILR 2002 Karnataka 3613.

e) If the Court decides to admit the document, than it shall follow the procedure prescribed under Order 13 Rule 4(1) CPC and mark the document.

Writ petition is rejected

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com