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SLP(C)No. 3534 OF 2000

ITEM No.38

Court No. 2

SECTION IVA
A/N MATTER

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No.3534/2000

(From the judgement and order dated 27/07/1998 in RSA 1046/91
of The HIGH COURT OF KARNATAKA AT BANGALORE)

BALAPPA RAMAPPA LOKURE AND ANR.

Petitioner (s)

VERSUS

BALAPPA & ORS.

Respondent (s)

(With prayer for interim relief)
(With Appln(s). for c/delay in filing SLP)

Date : 05/02/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.P. BHARUCHA
HON'BLE MR. JUSTICE DORAISWAMY RAJU
HON'BLE MR. JUSTICE Y.K. SABHARWAL

For Petitioner (s) Mr. Mohan V. Katarki,Adv.
Mr. Ashok Kumar Sharma,Adv.

For Respondent (s) Mr. Girish Ananthamurthy,Adv.
Mr. P.P. Singh,Adv.

UPON hearing counsel the Court made the following
O R D E R

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Delay condoned.

Leave granted.

The civil appeal is ordered.

No order as to costs.

(T.I. Rajput)
Court Master

(S. Sen Gupta)
Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

Civil Appeal No.1054 of 2001@@
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(Arising out of S.L.P. (C) No.3534 of 2000)

Balappa Ramappa Lokure & Anr. ...Appellant (s)

Versus~

Balappa & Ors.Respondent (s)

O R D E R@@
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....L.....I.....T.....T.....T.....T.....T.....T.....T.....J

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Delay condoned.
Leave granted.

The order under challenge was passed on a second appeal. After a brief discussion, the learned Single Judge held that the approach of the courts below was "prima facie perverse and is an error apparent on the face of the record.....". No question of law was framed. The discussion in the impugned order is inadequate to set aside the findings of the courts below in a second appeal, that too in regard to a partition suit. The High Court must frame a substantial question of law and it is only if it is contended on behalf of the appellant that the findings of the courts below are perverse that the question of law should so state. The High ...2/-

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Court should then discuss the evidence in considerable detail as also its findings that the approach of the courts below was perverse. This is an unsatisfactory judgment and it is set aside. The second appeal (No.1048 of 1991) is restored to the file of the High Court to be heard and disposed of afresh, expeditiously.

Order on the appeal accordingly.
No order as to costs.

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.....J.
(S.P. Bharucha)@@
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.....J.
(Doraiswamy Raju)@@
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.....J.
(Y.K. Sabharwal)@
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New Delhi,
February 05, 2001.