

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

RECORD OF PROCEEDINGS

CIVIL APPEAL NO.1638 OF 1999

HALAPPA & OTHERS  
Appellant(s)

Appel

VERSUS

UMAPATHY & OTHERS  
Respondent(s)

Respo

(with office report)

Date: 05/04/2005 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN

HON'BLE MR. JUSTICE A.K.MATHUR

For Appellant(s)

Mr. S.K. Kulkarni, Adv.

Mr. M.Gireesh Kumar, Adv.

Ms. Sangeeta Kumar, Adv.

For Respondent(s)

Mr. G.V. Chandrashekar, Adv.

Mr. P.P. Singh, Adv.

UPON hearing counsel the Court made the following

O R D E R

Civil Appeal is dismissed in terms of the signed order.

(Parveen Kr. Chawla)

Court Master

(Phoolan Wati Arora)

Court Master

[Signed Order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1638 OF 1999

HALAPPA & OTHERS

..APPELLANT(S)

VERSUS

UMAPATHY & OTHERS

..RESPONDENT(S)

O R D E R

Appellants, who are the legal representatives of original defendant No.4,

have filed this appeal against the judgment and final order dated 11th July, 1997

passed by the High Court of Karnataka at Bangalore in Regular Second Appeal

No. 754 of 1986 dismissing the second appeal of the appellants herein.

One Kenchaveerappa, son of Channappa, real uncle of the plaintiff-respondent Umapathy sold the joint family property(suit property) to original defendant No.4 on 5th June, 1973 by a registered sale deed. Plaintiffs-respondents filed a suit for declaration that the sale made by Kenchaveerappa, son of Channappa in favour of defendant No.4 was not binding on the plaintiffs as the same had been made without any legal necessity. A prayer for possession of half share of the property by way of partition was made.

Trial Court dismissed the suit and held that the sale was for a legal necessity. The first appellate court in appeal reversed the judgment and decree passed by the trial court and held that the sale made by Kenchaveerappa, son of Channappa in favour of original defendant No.4 was without any legal necessity and decreed the suit.

High Court in regular second appeal filed by the appellants herein has affirmed the finding recorded by the first appellate court that the sale made by Kenchaveerappa, son of Channappa was without any legal necessity. The finding recorded by the first appellate court and affirmed by the High Court is a finding of fact which does not call for any interference.

Accordingly, we dismiss this appeal with no order as to costs.

.....J.

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[ASHOK BHAN ]

NEW DELHI;  
.....J.

April 05, 2005.

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[A.K. MATHUR]