

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4558 OF 2002

NAGAVVA K.R.VALISHETTAR(D)BY LRS.& ORS.

.....APPELLANTS

VERSUS

RUDRAPPA MAHADEVAPPA HUMBI(D)BY LRS.&ORS

.....RESPONDENTS

O R D E R

This appeal is directed against judgment dated 30.03.1999 of the learned Single Judge of Karnataka High Court who reversed the judgment and decree passed by the trial court in a suit for declaration, possession and injunction filed by the predecessors of the appellants and others.

We have heard learned counsel for the parties and perused the record. In our view, the impugned judgment is liable to be set aside only on the ground that learned Single Judge reversed the well-reasoned judgment and decree of the trial court without evaluating the pleadings and evidence of the parties with reference to the issues framed by the trial court and without recording findings on each of the issues.

We would have ourselves considered the matter on merits but keeping in view the fact that the said course would deprive either of the parties of a valuable right to appeal, we refrain from doing so and feel that ends of justice would be met by remitting the matter to the High Court for fresh disposal of the

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first appeal preferred by the predecessors of the respondents.

For the reasons stated above, the appeal is allowed. The impugned judgment is set aside and the matter is remitted to the High Court for fresh disposal of the first appeal preferred by the predecessors of the respondents. The appellant shall be entitled to raise all legally permissible objections relating to the maintainability of the first appeal preferred by the

predecessors of the respondents including the one that legal representatives of one of the plaintiff - Nagavva - had not been brought on record even though factum of her death on 08.2.1999 had been brought to the notice of the High Court and the parties.

Since the matter is more than sixteen years old, we request the High Court to consider the desirability of disposing of the appeal as early as possible but latest before the end of 2010. There shall be no order as to cost.

.....J.  
( G.S.SINGHVI )

.....J.  
( ASOK KUMAR GANGULY )

NEW DELHI;  
JANUARY 28, 2010.

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ITEM NO.102

COURT NO.12

SECTION IVA

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(s). 4558 OF 2002

NAGAVVA K.R.VALISHETTAR(D)BY LRS. & ORS.

Appellant (s)

VERSUS

RUDRAPPA MAHADEVAPPA HUMBI(D)BY LRS.&ORS

Respondent(s)

(With office report)

Date: 28/01/2010 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI  
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Appellant(s)

Ms. Kiran Suri,Adv.

For Respondent(s)

Mr. Ashok Kumar Sharma,Adv.

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

The appeal is allowed in terms of the signed order.

Since the matter is more than sixteen years old, we

request the High Court to consider the desirability of disposing of  
the appeal as early as possible but latest before the end of 2010.  
There shall be no order as to cost.

(Satish K.Yadav)  
Court Master

( Signed order is placed on the file )

(Phoolan Wati Arora)  
Court Master