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SLP(C)No. 5821 OF 2001

ITEM No.206

Court No. 5

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.5821/2001

(From the judgement and order dated 23/11/2000 in WA 1486/97
of The HIGH COURT OF KARNATAKA AT BANGALORE)

GIRIJAMMA

Petitioner (s)

VERSUS

STATE OF KARNATAKA & ANR.

Respondent (s)

(With prayer for interim relief)
(For Final Disposal)

Date : 27/09/2002 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE U.C. BANERJEE
HON'BLE MR. JUSTICE B.N. AGRAWAL

For Petitioner (s) Mr. R.S. Hegde, Adv.
Mr. P.P. Singh, Adv.

For Respondent (s) Mrs. Anjana Chandrashekhar, Adv.
Mr. T.N. Rao, Adv.

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

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.SP2

Heard learned counsel for the parties for about
twenty minutes.

Leave granted.

The appeal is allowed in terms of the signed
order.

.SP1

(K.K. Chawla)
Court Master

(Shelly Sengupta)
Court Master

[Signed order is placed on the file]

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.PL56

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2002@@
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(ARISING OUT OF SLP (CIVIL) NO.5821 OF 2001)

GIRIJAMMA

APPELLANT

VERSUS

STATE OF KARNATAKA & ANR.

RESPONDENTS

O R D E R@@
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.SP2

Leave granted.

The appellant is in appeal against the order of the Division Bench of the Karnataka High Court wherein the High Court thought it fit to remand the matter back to the Land Tribunal for further assessment of the situation as to whether Respondent No.2 herein was a tenant of the land in question.

The learned Single Judge of the High Court has been rather categorical in his finding as regards the documentary evidence. There happens to be a sale deed which stands in favour of the appellant and the learned Single Judge was pleased to observe that in the event the same is otherwise a sham document, it was for ..2/-

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Respondent No.2 herein to challenge the same and since there is no challenge thereto, question of non-reliance thereon would not arise. The record of rights further depicts that the appellant herein is the owner and in possession of the land in question and recitals of the sale deed itself record that the appellant was put into possession of the property subsequent to 1.3.1971 and there is no documentary evidence as regards the case made out by Respondent No.2. The learned Single Judge allowed the writ petition. But the Division Bench of the High Court in appeal against the order of the learned Single Judge ought not to have interfered with the same since the finding of fact stands concluded thereon.

On the wake of the aforesaid, this appeal succeeds and is allowed. The order impugned stands set aside and that of the learned Single Judge stands restored.

.SP1

.....J.
(U.C. Banerjee)

.....J.
(B.N. Agrawal)

New Delhi,

September 27, 2002.