

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1303 OF 2008

ST. ANN'S EDUCATIONAL SOCIETY ...APPELLANT(s)

VERSUS

LAKSHMI & ANR. ...RESPONDENT(s)

O R D E R

We have heard learned counsel for the parties in respect of the impugned judgment and order dated 20th January, 2004 passed by a learned Single Judge of the Karnataka High Court in RFA No.846 of 1999 as well as the order dated 22nd November, 2005 in Review Petition No.510 of 2005.

The proceedings arise out of a civil suit having been filed by Smt. Lakshmi through her General Power of Attorney, Shri V. Sreeramulu.

One of the issues framed in the civil suit was whether Smt. Lakshmi is a fictitious person or not. There was no final determination in this regard either by the Trial Court or by the First Appellate Court (High Court).

As far as the present appeal is concerned, it may only be stated that the suit was for a decree seeking permanent injunction against the appellant (St. Ann's Educational Society) in respect of 10 acres of land in

Survey No.27 in Village Kowdenahalli, Bangalore. While the civil suit filed by Smt. Lakshmi was dismissed, the First Appellate Court (High Court) decreed the suit in her favour.

It is under these circumstances that the appellant is now before us.

In the present appeal, Smt. Lakshmi has been served through her General Power of Attorney Shri V. Sreeramulu. Neither of them has put in appearance in this Court.

When Smt. Lakshmi filed the suit, she was about 60 years of age in 1989. In the normal course, Smt. Lakshmi would now be about 97 years of age.

As far as Shri V. Sreeramulu is concerned, he was about 80 years of age when certain proceedings for contempt being CCC (Criminal) No.12 of 2006 were initiated against him by the Karnataka High Court in 2009. He would, therefore, be in the region of 87 years of age today.

We have no idea whether Smt. Lakshmi is a fictitious person or not. If she is not a fictitious person, she would be in the region of about 97 years of age and we have no idea whether she is still alive.

Similarly, we have no idea whether Shri V. Sreeramulu, her General Power of Attorney is alive or not since no one has put in appearance on their behalf.

Prima facie, on going through the records of the case and after hearing learned counsel for the parties, it does appear to us that Smt. Lakshmi was a fictitious person. Even her General Power of Attorney Shri V. Sreeramulu could not produce her as is evident from the proceedings for contempt being CCC (Criminal) No.12 of 2006.

Under the circumstances, since it appears that the civil suit filed by Smt. Lakshmi being a non-existent person was based on a complete fraud, the decree granted in her favour is set aside.

We may note that insofar as the grant of the land to the appellant is concerned, that has been found against the appellant right up to this Court in SLP(C) No.1519-1520 of 2003 decided on 31st March, 2003.

We are informed that the appellant has preferred some writ petition which is pending in the Karnataka High Court being W.P. No.23158 of 2008. We do not make any comment or any observations with regard to these proceedings.

It is also brought to our notice by learned counsel for the appellant that the civil suit being OS No.4709 of 2010 has been filed by the appellant in the City Civil Court, Bangalore for relief of permanent injunction restraining the State of Karnataka from interfering with the appellant's possession of the suit scheduled property

without following due process of law.

It is submitted that an injunction has been granted in favour of the appellant on 1st October, 2011.

In this context, we may note that all proceedings with regard to the grant of the land to the appellant have attained finality against the appellant by the dismissal of SLP(C) No.1519-1520 of 2003 filed by the appellant in this Court.

This may be taken note of by the High Court and Civil Court as well.

The appeal stands disposed of.

.....J.
(MADAN B. LOKUR)

.....J.
(DEEPAK GUPTA)

NEW DELHI
JANUARY 23, 2018

ITEM NO.102

COURT NO.4

SECTION IV-A

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).1303/2008

ST. ANN'S EDUCATIONAL SOCIETY

Appellant(s)

VERSUS

LAKSHMI & ANR.

Respondent(s)

Date : 23-01-2018 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR

HON'BLE MR. JUSTICE DEEPAK GUPTA

For Appellant(s) Mr. Raju Ramachandran, Sr. Adv.
Mr. K. Parameshwar, Adv.
Mr. George Thomas, Adv.
Mr. R. Sathish, AOR
Hamsini Shankar, Adv.
Mr. Ishwar Mohanty, Adv.

For Respondent(s)
Mr. V. N. Raghupathy, AOR
Mr. Parikshit P. Angadi, Adv.
Mr. Md. Apzal Ansari, Adv.

As per appearance slip

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

The appeal stands disposed of.

Pending application, if any, stands disposed of.

(SANJAY KUMAR-I)
AR-CUM-PS

(KAILASH CHANDER)
COURT MASTER

(Signed order is placed on the file)